

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between)

Name of Claimant(s))

Lawrence Cofar, as Trustee of the)
Roy Shur Irrevocable Trust)
Sharon Cofar, as Trustee and Indiv.)
Renee Esecson, as Trustee)

Case No. 90-00813

Name of Respondent(s))

Joseph Paskowski)
Steve Gordon)
Peter Ganyard)
Richard Keil)

Heard before the members of the Arbitration Panel:

Arieh Leo Douer Public Arbitrator
Terrence W. Grant Industry Arbitrator
Judy Avey Public Arbitrator

PRESENTATION

Claimants, Lawrence Cofar, Sharon Cofar ("Cofars") and Renee Esecson ("Esecson"), were represented by Russell L. Forkey, Esq. of Russell L. Forkey, P.A.

Respondents, Peter Ganyard ("Ganyard") and Richard Keil ("Keil"), were represented by Lloyd Schwed, Esq. of Carlson & Schwed, P.A.

Respondent, Steve Gordon ("Gordon"), was pro-se.

Respondent, Joseph Paskowski ("Paskowski"), was pro-se.

CASE SUMMARY

This matter was initiated by a Statement of Claim filed with the National Association of Securities Dealers, Inc. ("NASD") on March 16, 1990. Claimants alleged that Respondent, Paskowski: misrepresented the safety of Colonial Government Securities Plus Trust; failed to advise Claimants of the effect of the front end load; failed to deliver a prospectus; misrepresented the fact that he received a commission; and otherwise induced Claimants into investing in an unsuitable mutual fund. Claimants alleged: fraud; breach of fiduciary duties; and negligence and, as it relates to Respondents Gordon, Ganyard and Keil, negligent supervision.

In a Statement of Answer filed with the NASD on October 15, 1990, Respondent, Gordon, denied all allegations of wrongdoing and alleged that he had no supervisory responsibilities over Paskowski.

In a Statement of Answer filed with the NASD on November 28, 1990, Respondent, Ganyard, denied all allegations of wrongdoing and alleged that he had no supervisory responsibilities over Paskowski.

In a Statement of Answer filed with the NASD on July 27, 1990, Respondent, Paskowski, denied all allegations of wrongdoing and alleged that Claimants were fully informed of all the relevant information pertaining to the mutual fund and were provided with a prospectus.

In a Statement of Answer filed with the NASD on March 8, 1991, Respondent, Keil, denied all allegations of wrongdoing and alleged that he had no supervisory responsibilities over Paskowski.

RELIEF REQUESTED

Claimants requested damages in the amount of \$43,445.49, plus costs.

Respondents, Gordon, Ganyard and Keil, requested dismissal of the claim, plus costs and attorney's fees.

Respondent, Paskowski, requested dismissal of the claim.

AWARD

On March 28 and May 28, 1991, in Fort Lauderdale, Florida, during a hearing lasting four (4) sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimants, on February 16, 1990, and signed by Respondents, Ganyard on February 1, 1991 and Keil, on March 28, 1991, and not signed by Respondents, Gordon or Paskowski, as required by Sections 12 and 25 of the Code, Respondents, Gordon and Paskowski, being persons associated with an NASD member firm, First American Asset Management, at the time this controversy arose.

After considering the pleadings, the testimony, and the evidence presented at the hearing, the arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award be entered. In either case, the parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASD.
2. Respondents, Paskowski, Gordon and Ganyard, are found not liable and, therefore, all claims against them are hereby dismissed.

3. Respondents, Gordon, Garyard and Keil's requests for attorney's fees and costs are denied.

4. Respondent, Keil, was dismissed by the Panel during the hearing and, therefore, is also found not liable.

FORUM FEES

1. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount of \$1,600.00, (4 sessions x \$400.00 per session). Claimants are hereby assessed \$1,600.00 for which the NASD shall retain the \$400.00 previously deposited in partial satisfaction thereof.

2. The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding.

Fees are payable to the National Association of Securities Dealers, Inc.

OTHER ISSUES

None.

ARBITRATORS CONCURRING

/s/

Arieh Leo Douer, Public Chairman

/s/

Terrence W. Grant, Industry Arbitrator

/s/

Judy Avey, Public Arbitrator

Date of Decision: July 9, 1991