

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between)	
)	
<u>Name of Claimant(s)</u>)	
)	
Emma E. Bell (Individual & as Personal)	
Representative of Charles E. Bell))	
Rodney A. Bell)	
)	Case No. 90-01018
)	
<u>Name of Respondent(s)</u>)	
)	
Consolidated Investment Services, Inc.)	
Richard N. Davis)	
)	

Heard before the members of the Arbitration Panel:

Patricia A. Shub, Esq.	Public
Sherman R. Kaplan, M.D.	Public
Anthony S. Paetro, Esq.	Industry

CASE SUMMARY

This matter was initiated by a Statement of Claim filed with the National Association of Securities Dealers, Inc. ("NASD") on April 4, 1990 and amended on August 23, 1990. Claimants, Emma E. Bell and Rodney A. Bell ("Bells"), alleged that Respondents, Consolidated Investment Services, Inc. ("CIS") and Richard N. Davis ("Davis"), made misrepresentations of and omitted to state material facts; recommended and sold to Claimants limited partnerships that were unsuitable in light of Claimants' expressed investment objectives and financial condition; that Claimants were unsophisticated and inexperienced investors; that Respondents took control of the account; that Respondents' actions constitute violations of Section 517.301, Florida Statutes and the 1934 Exchange Act; breach of contract; common law fraud; breach of fiduciary duty; and, gross negligence.

In a Statement of Answer filed with the NASD on October 9, 1990, Respondents denied all allegations of wrongdoing and alleged that the claims are originally, substantially frivolous, groundless and vexatious. Respondents asserted the affirmative defenses of bar by Statute of Limitations, accord and satisfaction, estoppel, laches, release and waiver and failure to state a cause of action.

RELIEF REQUESTED

Claimants requested damages in the amount of \$25,000.00, interest, costs and punitive damages. Claimants' requests for attorney's fees and RICO damages were withdrawn at the hearing.

Respondents requested dismissal, costs and attorney's fees for frivolous and groundless claims pursuant to Rule 11 of the Civil Procedure of the Federal Rule.

AWARD

On March 27 and 28, 1991, in Fort Lauderdale, Florida, during a hearing lasting five (5) sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimants, Emma Bell on April 24, 1990 and by Rodney Bell on June 4, 1990, and signed by Norman P. Rounds on behalf of Respondent, CIS, on November 16, 1990 and by Davis on November 21, 1990.

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. Respondent, CIS, is found not liable and, therefore, all claims against it are hereby dismissed.
3. Respondent, Davis, is found liable and shall pay to the Claimant, Rodney Bell, the amount of \$1,000.00.
4. Claimants' requests for interest, costs and punitive damages are denied.
5. Respondents' requests for costs and attorney's fees are denied.

FORUM FEES

1. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount of \$2,000.00 (five sessions x \$400.00). Claimants are hereby assessed \$1,000.00 for which the NASD shall retain \$280.00 previously deposited in partial satisfaction thereof. Respondent, CIS, is hereby assessed \$1,000.00 for which the NASD shall retain \$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 including attorney's fees.

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

OTHER

Pursuant to Respondents' Motion to Dismiss the Claim alleging violation of Section 17(a) of the 1933 Securities Act, the Panel has granted that Motion. Claimants withdrew the claims alleging violation of the Florida and Federal RICO Acts.

Concurring Arbitrators Signatures

SL
Patricia A. Shub, Esq.

SL
Sherman R. Kaplan, M.D.

SL
Anthony S. Paetro, Esq.

Date of Decision: April 18, 1991