

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between	)	
Paul and Rosalyn Burgio	)	
Claimants	)	
vs.	)	AWARD
	)	NASD #90-01257
Coast Financial Advisors, Inc.	)	
Respondent	)	

SUMMARY OF ISSUES

This case was filed with the National Association of Securities Dealers, Inc. ("NASD") on May 4, 1990. The basic facts at issue are uncontested: Claimant Paul Burgio made an investment of one-half unit in a real estate limited partnership in his self-directed IRA account through Coast Financial Advisors' registered representative, Gerald A. Steward. Approximately twenty months later, the Burgios received a letter from Coast informing them that they should consider their investment a loss due primarily to the economic downswing of the Phoenix, Arizona area where the real estate was located. Immediately after receiving the letter, the Burgios sent to Coast a copy of a letter which they claimed entitled them to get their original investment back. The letter, addressed to the Burgios and dated the same date as their investment was made, was signed by Steward individually and bore an undated notary stamp, and stated:

I attest that at anytime prior to the eventual sale of the above mentioned property and close of partnership, you may exercise the option to withdraw from the investment without penalty and receive the entire (sic) amount of original rollover equity.

Claimants demanded a refund of the value of the investment as shown on their 1988 IRS Form 5499 citing the above letter as a guarantee and alleged that they would not have made the investment had Steward not assured them that they could withdraw from it and receive a refund. Respondent maintained that it could not be held liable for Steward's actions that fell outside the terms and conditions of his employment with Coast, and that Steward was not authorized to vary the terms of the limited partnership offering.

DAMAGES AND RELIEF REQUESTED

Claimant requested damages of \$9,148.19 plus interest from June 27, 1987.

Respondent requested dismissal of claims.

**DAMAGES AND RELIEF AWARDED**

On November 16, 1990, the undersigned arbitrator heard the controversy between the parties as set forth in submissions to arbitration signed by Claimants Paul J. Burgio on April 26, 1990 and Rosalyn Burgio on April 18, 1990 and by Respondent Coast Financial Advisors on July 8, 1990. The hearing was conducted in San Diego, California and lasted one (1) session. The arbitrator having considered the pleadings, the testimony, and the evidence presented at the hearing, has determined in full and final resolution of the issues submitted as follows:

1. Claimant Paul J. Burgio is awarded the sum of Seven Thousand Dollars and Zero Cent (\$7,000.00). This sum shall be made payable to the IRA account if it is still in existence and otherwise to Paul J. Burgio individually.
2. All other claims are denied.
3. The parties shall each bear their respective costs including attorneys' fees.
4. In accordance with Section 43 of the NASD Code of Arbitration Procedure:
  - a) the NASD shall retain the \$200.00 filing fee previously deposited by the Claimants.
  - b) Respondent is assessed the sum of \$200 representing the filing fee and shall reimburse the Claimants directly.

**OTHER ISSUES**

None.

**ARBITRATOR CONCURRING**

DATE SERVED: 1/28/91

  
Franklin G. Allen