

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

RoseAnn, Laura and Lisa Sperandio

90-01347

Name of Respondents

First Affiliated Securities
Jonathan Alan & Co., Inc.
Elizabeth Schoultz
Bekhor Securities
Mitchel Feinglas

REPRESENTATION

For Claimants: RoseAnn Sperandio.

For Respondent, Elizabeth Schoultz: Elizabeth Schoultz

For Respondents, Jonathan Alan & Co., Inc. and Mitchel Feinglas: John E. Lawlor, Esq. a sole practitioner.

For Respondents, Bekhor Securities Corporation and First Affiliated Securities, Inc.: Jeffrey Schreiber, Esq. of Rothlisberger & Schreiber.

CASE INFORMATION

Claimants:

Statement of Claim filed: May 11, 1990.

Amendment to Statement of Claim filed: June 18, 1990.

Response to Respondent, Elizabeth Schoultz's Statement of Answer filed: May 13, 1991.

Response to Bekhor Securities Corporation's Motion to Dismiss filed: October 30, 1991.

Amendment to Statement of Claim filed: November 1, 1991.

Claimants' Submission Agreements signed: RoseAnn Sperandio - March 28, 1990.
 Laura Sperandio - March 28, 1990.
 Lisa Sperandio - March 28, 1990.

Statement of Answer filed by Respondent, Jonathan Alan & Co., Inc. and Mitchel Feinglas: June 18, 1990.

Respondent, Jonathan Alan & Co., Inc.'s Submission Agreement signed on July 17, 1990.

Respondent, Mitchel Feinglas' Submission Agreement signed on October 14, 1992.

Statement of Answer filed by Respondent, Elizabeth Schoultz on: May 1, 1991.

Respondent, Elizabeth Schoultz's Submission Agreement signed on: April 30, 1991.

Statement of Answer and Cross-claim against Elizabeth Schoultz filed by Bekhor Securities Corporation on: October 22, 1991.

Bekhor Securities Corporation's Submission Agreement signed on: October 18, 1991.

Bekhor Securities Corporation's Motion to Dismiss filed on: October 22, 1991.

HEARING INFORMATION

Pre-Hearing Conference: October 7, 1992 - One Session.
 November 2, 1992 - One Session.

Hearing Dates/Sessions: November 9, 1992 - Two Sessions
 November 10, 1992 - Two Sessions.
 November 11, 1992 - One Sessions.

Hearing Location: NASD Offices - New York, NY.

CASE SUMMARY

Claimants allege that they were misled by Respondent, Elizabeth Schoultz ("Schoultz") into investing in limited partnerships. Claimants allege that they wanted to invest in safe investments for a short period and that the limited partnerships would earn interest, a capital gain and some quarterly income. Claimants allege that this was not the case. Claimants allege that they were not given a prospectus for one of the investments and had they had the opportunity to read the prospectus, they would never have invested in the limited partnership. Claimants allege that because of Schoultz's misrepresentations, they have lost a substantial portion of the funds they invested.

Respondents, Jonathan Alan & Co., Inc. ("Jonathan Alan") and Mitchel Feinglas ("Feinglas") maintain that they are the successors to First Associated Financial Group, Inc. and not First Affiliated Securities, Inc. as the claim states. Jonathan Alan and Feinglas maintain that Jonathan Alan was not the selling broker of the investments in question and Respondent, Schoultz was not registered with the firm, nor with the predecessor firm First Associated Financial Group.

Respondent, Elizabeth Schoultz maintains that she has not been a broker since leaving the employ of First Affiliated Securities, Inc. and that she was never associated with Jonathan Alan & Co., Inc. Schoultz maintains that she followed standard operating procedure with respect to the Claimants' account and that all her accounts were reviewed by the company's President and attorney as to the suitability of her recommendations. Schoultz maintains that she did not intentionally mislead the Claimants into investing in limited partnerships, rather, the Claimants were interested in those specific investments. Schoultz maintains that the Claimants were aware of the nature and risks involved with limited partnerships and that she discussed the advantages and disadvantages with Claimant, RoseAnn Sperandio.

Respondent, Bekhor Securities Corporation ("Bekhor") denies that they or Schoultz made any misrepresentations to the Claimants or that they caused the Claimants' losses in any way. Bekhor maintains that the Claimants have not actually lost their investment in any of the funds mentioned in the claim and that although many of the funds have stopped their distributions, they are viable entities. Bekhor maintains that the Claimants were suitable investors for each of the limited partnerships in which they invested. Bekhor maintains that the Claimants were never customers of Bekhor Securities Corporation dba First Affiliated Securities, Inc. Bekhor maintains that the Claimants were customers of First Affiliated Securities, Inc., a separate corporation now known as Arim Production Corporation which is now in bankruptcy. Bekhor asserted a cross-claim against Elizabeth Schoultz for indemnification of any amounts that the Claimants may recover against Bekhor.

RELIEF REQUESTED

Claimants requested damages in the amount of \$41,000.00. This claim was amended at the hearing to \$32,228.00.

Respondents, Jonathan Alan & Co., Inc. and Mitchel Feinglas requested that the claim be dismissed.

Respondent, Elizabeth Schoultz requested that the claim be dismissed.

Respondent, Bekhor Securities requested that the claim be dismissed and that Respondent, Elizabeth Schoultz shall indemnify Bekhor for any amount Claimants may recover from Bekhor. Bekhor requested attorneys fees and costs of this arbitration.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may 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.

The panel found that First Affiliated Securities, Inc. changed their name to Arim Production Company which is now in bankruptcy. Thus, the claim against First Affiliated Securities, Inc. cannot proceed in this forum. The panel hereby dismisses the claim against them, and refers the Claimants to their remedy at law.

AWARD

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

- 1) The claim is hereby dismissed in its entirety.
- 2) The cross-claim is hereby dismissed in its entirety.
- 3) Each party shall bear their own costs of this action, including attorney's fees.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed:

Filing fee for Claim:	\$120
Filing fee for Cross-claim:	\$500
Pre-hearing conference:	\$300
Pre-hearing conference:	\$300
Hearing Fees:	\$2,000 (5 sessions x \$400)

- 1) The NASD shall retain the \$400.00 filing fee and partial hearing session deposit paid by the Claimant. The amount of \$120.00 shall be applied to the filing fee and \$280 shall be applied to the hearing session deposit.
- 2) Respondent, Bekhor Securities, Inc. is hereby directed to pay their filing fee of \$500.00 to the NASD, Inc.

- 3) The balance of the filing fees \$2,320.00 (\$2,600 minus \$280 Claimant already deposited) is hereby assessed as follows: Claimant is assessed one half of the forum fees in the amount of \$1,160.00. Accordingly, Claimant shall pay this amount to the NASD, Inc. Respondent, Bekhor Securities, Inc. is hereby assessed the amount of \$386.66 and shall pay that amount to the NASD, Inc. Respondent, Elizabeth Schoultz is hereby assessed the amount of \$386.66 and shall pay that amount to the NASD, Inc. Respondents, Jonathan Alan & Company and Mitchel Feinglas are hereby jointly and severally assessed the amount of \$386.66 and shall pay that amount to the NASD, Inc.

Concurring Arbitrator's Signature

Name



Charles Kleinbaum, Esq.

Public Chairperson



Date of Decision January 8, 1993