

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Commonwealth Publishing Co., Inc.

90-01960

Name of Respondent(s)

Planners Securities Group, Inc.
John A. Reilly

REPRESENTATION

For Claimant: Personal Representative Cord Stehr of Boston, Massachusetts

For Respondent: Angela Morin, Esq. of Cushing and Morris in Atlanta, Georgia

CASE INFORMATION

Statement of Claim filed: July 16, 1990

Claimant's Submission Agreement signed on: July 10, 1990

Respondent Planners Securities Group, Inc.'s Submission Agreement signed on:
October 5, 1990

Respondent John A. Reilly did not sign a Submission Agreement or file a Statement of Answer to the Statement of Claim since the NASD, Inc. could not affect service of the claim upon him.

HEARING INFORMATION

Hearing Date/Sessions: July 17, 1991/two sessions

Hearing Location: Boston, Massachusetts

CASE SUMMARY

Claimant Commonwealth Publishing Co., Inc. alleged that Respondents failed to disclose that various transactions in Claimant's portfolio were commissionable, omitting to disclose material facts regarding the investments. Claimant, asserting that it was not sophisticated as an investing entity, alleged that Respondents caused losses to the company by investing in international funds which were sold to the company.

Respondent Planners Securities Group, Inc. maintained that the investments made for the Claimant were consistent with the previous investment history and objectives of the Claimant, that commission charges are explained in the prospectus given to the Claimant, and that any excessive advisory fee claims alleged must be addressed by Respondent John A. Reilly since the broker-dealer did not receive these fees. Respondent John A. Reilly did not file a Statement of Answer to the Statement of Claim.

RELIEF REQUESTED

Claimant requested actual damages of \$59,000.00, punitive damages of \$59,000.00, and treble damages of \$59,000.00 for a total relief request of \$177,000.00. Respondent Planners Securities Group, Inc. requested that the claims of the Claimant be dismissed. Respondent John A. Reilly did not file a Statement of Answer to the Statement of Claim.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASD.

The NASD, Inc. was unable to effect service of notice of this proceeding upon Respondent John A. Reilly.

AWARD

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

- (1) The claims of the Claimant against the Respondent Planners Securities Group, Inc. be and hereby are dismissed in their entirety with prejudice.
- (2) The Claimant's claims for punitive and treble damages be and hereby are dismissed.
- (3) The claims of the Claimant against Respondent John A. Reilly be and hereby are dismissed without prejudice since the NASD, Inc. could not affect service upon John A. Reilly of any notice of this proceeding.
- (4) The parties shall bear their respective costs.

FORUM FEES

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

(1) The \$750.00 hearing session deposit previously deposited by the Claimant shall be retained by the NASD, Inc.

(2) The arbitrators hereby assess \$750.00 in forum fees against Respondent Planners Securites Group, Inc.

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

Concurring Arbitrators' Signatures

Name

Julien F. Begien

Public Arbitrator/
Chairperson

Simon Tager

Public Arbitrator

John Hansen, Esq.

Industry Arbitrator

Date of Award: December 20, 1991

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