

N.A.S.D. BOARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between	)	
	)	
<u>Name of Claimant(s)</u>	)	
	)	
Genevieve V. Creskey Beal, Trustee	)	Case No: 90-02394
Dorothy Strumfeld, Trustee	)	<del>90-02400</del>
	)	
<u>Name of Respondent(s)</u>	)	
	)	
Argus Securities, Inc.	)	
Basil Allison	)	
	)	

REPRESENTATION

For Claimants, Genevieve V. Creskey Beal, Trustee ("Beal") and Dorothy Strumfeld, Trustee ("Strumfeld"): David Spreccace, Esq. of Haas, Austin, Ley, Roe & Patsko, P.A.

For Respondents, Argus Securities, Inc. ("Argus") and Basil Allison ("Allison"): Albert Lewis, Esq. of Piper, Esteva, Karvonen & Lewis.

CASE INFORMATION

Statement of Claim filed by Beal on August 27, 1990 and amended December 27, 1990. Statement of Claim filed by Strumfeld on August 29, 1990. Claimants' Submission Agreements signed by Beal on August 24, 1990 and by Strumfeld on August 27, 1990.

Respondents' Statements of Answer filed by Argus on May 20, 1991 and May 21, 1991 and by Allison March 11, 1991 and January 8, 1991, which was amended on January 16, 1991. Respondents' Submission Agreements signed by Allison on January 7, 1991 and March 7, 1991, and by Bert Beckoff on behalf of Argus on May 20, 1991.

HEARING INFORMATION

On March 11, 1992, in Tampa, Florida, a pre-hearing conference lasting one (1) session was conducted via telephone conference call with an arbitrator.

On April 8, April 9 and June 9, 1992, in Tampa, Florida, hearings lasting nine (9) sessions were conducted.

### CASE SUMMARY

Claimants alleged that Respondents were liable for recommending and placing Claimants into a speculative and risky limited partnership which was not suitable for Claimants in light of their investment objectives.

Respondents, denied all allegations of wrongdoing and alleged that Claimants were suitable for the investment, Allison discussed all the risks involved in the investment, and market conditions caused Claimants' investment to decline in value.

Respondents alleged affirmative defenses including: failure to state a claim, statute of limitations, ratification, estoppel, set off, negligence on the part of Claimants, the trusts were not customers of Argus and market conditions were responsible for any losses.

### RELIEF REQUESTED

Claimant, Beal, requested damages in the amount of \$24,000.00, plus interest and Claimant, Strumfeld requested damages in the amount of \$15,000.00, plus interest.

Respondents requested dismissal of the claims. Additionally, Respondent, Allison requested attorney's fees and costs.

### OTHER ISSUES CONSIDERED AND DECIDED

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.

### AWARD

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. Respondents, Argus and Allison, are found liable, jointly and severally, and shall pay to Claimant, Beal, the amount of \$14,400.00, plus interest at the rate of 10% per annum in the amount of \$5,760.00, for a total due to Claimant, Beal, of \$20,160.00.
2. Respondents, Argus and Allison, are also found liable, jointly and severally, and shall pay to Claimant, Strumfeld, the amount of \$9,000.00, plus interest at the rate of 10% per annum in the amount of \$3,600.00 for a total due to Claimant, Strumfeld, of \$12,600.00.
3. Upon receipt of the amounts specified in paragraphs 1 and 2 above Claimants shall execute any documents necessary to effect a transfer of all their rights, title and interest in Southmark Realty Partners II limited partnership to Respondents, Argus and Allison, in amounts proportionate to the amounts paid by each Respondent for the damages specified in paragraphs 1 and 2 above.

4. Respondent, Allison's, request for costs and attorney's fees is denied.

OTHER COSTS

The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including attorney's fees.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount of \$3,900.00 (one pre-hearing conference x \$300.00 plus nine sessions x \$400.00 per session). Respondents, Argus and Allison, are hereby assessed \$3,900.00, jointly and severally, \$400.00 of which shall be paid directly to Claimant, Beal, and \$300.00, of which shall be paid directly to Claimant, Strumfeld, and \$3,200.00 of which shall be paid to the National Association of Securities Dealers, Inc. The NASD shall retain the \$700.00 previously deposited by Claimants in partial satisfaction of such fees. Additionally, Respondents, Argus and Allison, are hereby assessed and shall pay to Claimant, Beal, the \$100.00 non-refundable filing fee and shall pay to Claimant, Strumfeld, the \$100.00 non-refundable filing fee previously deposited by each Claimant. The NASD shall retain the \$200.00 deposited by Claimants in full satisfaction of such filing fees.

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

Concurring arbitrators Signatures

/s/  
John F. Cullem, Esq

Public

/s/  
Paul Sidney Elliott, Esq.

Public

/s/  
Terry G. Cleaves

Industry

June 30, 1992  
Date of Decision: