

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Hazel M. Day

Claimant

v.

90-02540

G.W. Story & Associates

George W. Story

Respondents

REPRESENTATION

For Claimant: Vincent DiCarlo, Esq., Bartel, Eng, Miller & Tornsgren, 300 Capitol Mall, Suite 1100, Sacramento, CA 95814

For Respondent: Stephen F. Boutin, Esq., Boutin, Lassner, Gibson, Perry & Delehant, 455 Capitol Mall, Suite 300, Sacramento, CA 95814-4406

CASE INFORMATION

Statement of Claim filed: September 12, 1990

Claimant's Submission Agreement signed on: September 6, 1990

Statement of Answer filed by Respondents on: December 5, 1990

Respondents' Submission Agreement signed on: December 3, 1990

HEARING INFORMATION

Prehearing Conference(s) Date(s)/Sessions (in parentheses): None

Hearing Date(s)/Sessions (in parentheses): 1992: January 7 (2), January 8 (2), January 14 (2), January 15 (2), March 19 (2), and March 20 (1), (11 total)

Hearing Location: San Francisco, California

### CASE SUMMARY

Claimant alleged violation of Section 10(b), Rule 10b-5, and 29(b) of the Securities and Exchange Act of 1934, breach of fiduciary duty, breach of contract, lack of suitability, negligence and fraud and deceit in the sale of Consolidated Capital Properties IV products, Landsing Income Fund, MCL, and Leastec Income Fund.

Respondents denied all substantive allegations of the Statement of Claim and alleged full disclosure, suitability of investments in light of claimant's objectives, authorization and no improper or illegal actions on the part of respondents.

### RELIEF REQUESTED

Claimant requested:

1. Rescission of all investments in Consolidated Capital products;
2. Rescission of all investments in Landsing Income Fund, MCL, and Leastec Income Fund;
3. Interest on the above at 10%;
4. Attorney's fees;
5. Costs of suit; and
6. Punitive and exemplary damages.

### 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.

### AWARD

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

1. All claims are dismissed;
2. The claim for punitive and exemplary damages are dismissed; and
3. The parties shall each bear their respective costs including attorneys' fees.

OTHER COSTS

None.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following forum fees are assessed: The NASD shall refund the \$750.00 hearing session deposit previously deposited by the claimant. Forum Fees assessed against Respondents, jointly and severally, for the sum of \$8,250.00 calculated as follows: Eleven hearing sessions times \$750.00 per hearing session, equals \$8,250.00.

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

ARBITRATION PANEL

Jr.

Public/Industry

Public

Industry

Public

Signature

  
Marcus Eugene Gracia, Jr.

DATE SERVED: 04/07/92

Signature

Date of Decision: March 31, 1992