

N.A.S.D. ~~BOARD~~

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Lewis v. Rodriguez

Claimant

and

90-02575

T.I.A.A.-College Retirement Equities Fund

Respondents

REPRESENTATION OF PARTIES

Claimant Lewis Rodriguez was represented by David Huckin of David Huckin & Associates, Inc., Houston, Texas.

Respondent T.I.A.A.-College Retirement Equities Fund was represented by Laura Molnar, Esq. of College Retirement Equities Fund, New York, New York.

CASE SUMMARY

In a Statement of Claim filed with the National Association of Securities Dealers, Inc. ("NASD") on or about September 7, 1990, Claimant Lewis Rodriguez ("Rodriguez") alleged that he requested a full surrender of his College Retirement Equities Fund account from Respondent T.I.A.A.-College Retirement Equities Fund ("Respondent") on March 1, 1990 and that on August 3, 1990, Rodriguez still had not received the funds. Rodriguez complained of the lengthy delay and alleged that Respondent promised funds would be sent immediately, and that due to the delay, Respondent would make the selling unit price of College Retirement Equities stock fund as of July 16, 1990. However, Rodriguez alleged that later, Respondent would not honor the July 16, 1990 price date due to a mistake Respondent alleged was made.

In a Statement of Answer filed with the NASD on or about February 22, 1991, Respondent denied any responsibility for the delay and furthermore, alleged that said delay was due to Rodriguez's delay in providing the information which would permit Respondent to make a transfer or cash withdrawal, rather than Respondent's delay in processing the request. Respondent alleged that procedures regarding surrendering of said account were explained to Rodriguez many times orally and in writing.

RELIEF REQUESTED

Claimant requested actual damages in the amount of \$2421.54 plus interest, costs, and attorney's fees.

Respondent requested that claims against T.I.A.A. be dismissed and that College Retirement Equities Fund not be liable for the delay in surrendering said funds.

PROCEDURAL MATTERS

The dispute was decided on the papers in Houston, Texas pursuant to Section 13 of the Code of Arbitration Procedure, Simplified Arbitration. The undersigned arbitrator decided the controversy on the papers as set forth in submissions to arbitration signed on September 7, 1990 by Claimant Lewis Rodriguez, and on February 21, 1991 by Peter Clapmoun on behalf of Respondent T.I.A.A.-College Retirement Equities Fund.

AWARD

The arbitrator, having considered the pleadings and the evidence presented on the papers, has decided in full and final resolution of the issues submitted for determination as follows:

1. The Claim shall be and hereby is denied in its entirety;
2. Each party shall bear their own costs and expenses other than those specifically enumerated herein;
3. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the claim filing fee and the hearing session deposit in the amount of \$50.00 previously deposited with the NASD by the Claimant.

Dated:

November 22, 1991

s/s M. Paul Martin, Esq.
Public Arbitrator

NASD served: December 5, 1991