

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Ira L. Goodman

90-02709

Names of Respondents

ArMa Financial Services, Inc.,
Merrill Sauriol and
Jere Ledesky

REPRESENTATION

Claimant. Ira L. Goodman was represented by Burton M. Bentley, Esq. of Phoenix, Arizona.

Respondents. ArMa Financial Services, Inc., Merrill Sauriol and Jere Ledesky were represented by Philip T. Goldstein, Esq. of Goldstein, Kingsley & McGroder, Ltd., Phoenix, Arizona.

CASE INFORMATION

The Statement of Claim was filed with the National Association of Securities Dealers, Inc. ("NASD") on December 7, 1990.

Claimant, Ira L. Goodman's Submission Agreement was signed on September 24, 1990.

The Joint Statement of Answer was filed by Respondents, ArMa Financial Services, Inc., Merrill Sauriol and Jere LeDesky on or about February 5, 1991.

Respondent, ArMa Financial Services, Inc.'s Submission Agreement was signed on February 5, 1991 by Merrill Sauriol, President.

Respondent, Jere LeDesky's Submission Agreement was signed on February 5, 1991.

Respondent, Merrill Sauriol's Submission Agreement was signed on February 5, 1991.

An Amended Statement of Claim was filed with the NASD on July 19, 1991.

An Amended Answer was filed with the NASD on September 18, 1991.

An Additional Claim under ERISA was filed with the NASD by Goodman on or about November 4, 1991.

Respondents' Answer to Claimant's Additional Claim Under ERISA was filed with the NASD on January 18, 1993.

HEARING INFORMATION

Pre-Hearing Conferences were held on June 3, 1992 with the chairperson of the panel for one hearing session and on July 31, 1992 with the entire panel for a single hearing session.

The hearing took place in Scottsdale, Arizona on January 24, 1993 for two (2) hearing sessions, January 25, 1993 for one (1) hearing session, January 26, 1993 for two hearing sessions, April 8, 1993 for two (2) hearing sessions, April 9, 1993 for two (2) hearing sessions, and April 10, 1993 for one (1) hearing session.

CASE SUMMARY

Claimant, Ira L. Goodman ("Goodman") alleged violations of the antifraud provisions of Arizona Securities Act, Section 10-b of the Securities Exchange Act of 1934 and rule 10-b-(5) promulgated thereunder, violations of the Arizona and federal racketeering statutes, violations of the Arizona Consumer Fraud Act and certain violations of the NASD Rules of Fair Practice.

Goodman alleged that he advised Respondents, ArMa Financial Services, Inc. (ArMa Financial), Merrill Sauriol ("Sauriol") and Jere LeDesky ("LeDesky") to maintain a conservative approach to investing his money and to invest in nothing but high quality and exchange traded blue chip stocks, to keep his accounts fully diversified. Instead, Goodman alleged that unsuitable securities were purchased for his account. Goodman also asserted that his accounts were churned, that there was no effective supervision by ArMa Financial of the trading activities of Sauriol and LeDesky, and that Sauriol and LeDesky made certain misrepresentations to Goodman. The misrepresentations made to Goodman included but are not limited to the following: (a) at all times Sauriol, LeDesky and ArMa Financial would act for and in the best interests of Goodman; (b) Sauriol and LeDesky did not share in the profits of ArMa Financial, did not receive commissions based upon their productivity and accordingly would not be interested in merely making securities sales to generate commissions; (c) Sauriol would not "churn" Goodman's accounts; (d) Goodman's capital would be safeguarded against loss to the best of their abilities; (e) Sauriol and LeDesky were sophisticated portfolio managers; (f) Goodman's funds were to be widely diversified to assure minimum risk of loss and that at

no time would more than 5% of invested capital be used to purchase any one security; (g) that all significant purchases would be cleared with Goodman in advance despite Goodman's conference on Sauriol and LeDesky of discretionary trading authority; and, (h) that Sauriol would only recommend suitable securities for Goodman.

Goodman further alleged that despite the foregoing representations, certain unauthorized trades occurred in his account including the purchase of 2,000 shares of Tucson Electric Power Co. Goodman further alleged that Sauriol and LeDesky shared extensively in the revenues and profits of ArMa Financial and churned Goodman's accounts.

Respondents, ArMa Financial, Sauriol and Ledesky denied the allegations of the claim and alleged that Goodman was a knowledgeable and sophisticated investor, assumed the risks associated with the purchase of equity securities and any losses sustained by Goodman were caused by the risks of investing and not the conduct of Sauriol, LeDesky of ArMa Financial. Goodman also had given limited power of attorney to ArMa for a period of time but he still authorized and directed most of the execution of transactions in his account. Following the withdrawal of the power of attorney, Goodman managed all of the trading in his accounts.

ArMa Financial, Sauriol and LeDesky counterclaimed for the attorney's fees they incurred to defend a non-meritorious claim.

Goodman filed an additional Claim for relief under the ERISA statute for breach of fiduciary duty owed to Goodman's pension plan.

ArMa Financial, Sauriol and LeDesky denied the allegations of the additional claim under ERISA.

RELIEF REQUESTED

Goodman requested rescission of all purchases of Tucson Electric Power Co., compensatory damages in excess of \$150,000.00, exemplary and punitive damages, treble damages, attorney's fees and costs.

ArMa Financial, Sauriol and LeDesky requested dismissal of the claim in its entirety and an award of not less than \$5,000.00 in attorney's fees incurred to defend the claim.

OTHER ISSUES CONSIDERED & DECIDED

The panel took under advisement Goodman's motion to amend the claim and add a claim for damages under the ERISA statute. The panel hereby grants the amendment to the claim. Respondents' motion to dismiss the ERISA claim which was also taken under advisement is hereby denied.

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 and post hearing submissions, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. ArMa Financial, Sauriol and LeDesky are jointly and severally liable for and shall pay to Goodman, the sum of Seven thousand nine hundred sixty dollars and one cent (\$7,960.01);
2. No interest is awarded on the above stated sum;
3. The claim for punitive damages and RICO damages under Arizona law is dismissed in its entirety; and,
4. Other than Forum Fees which are addressed below, the parties are each to bear their own costs, expenses and attorney's fees incurred in this matter.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed. The NASD shall retain the \$200.00 non-refundable claim filing fee and the \$750.00 hearing session deposit previously deposited with the NASD by Goodman. The NASD shall also retain the \$500.00 non-refundable counterclaim filing fee and the \$250.00 hearing session deposit previously paid to the NASD by Respondents. Additional Forum Fees in the amount of \$3575.00 are assessed to Goodman and in the amount of \$4075.00 are assessed to the Respondents, ArMa Financial, Sauriol and LeDesky, jointly and severally. Forum Fees were calculated on the basis of \$750.00 per hearing session for eleven hearing sessions with the entire panel and \$400.00 for the pre-hearing conference with the panel chairperson. The NASD shall also retain the \$750.00 postponement fee paid to the NASD by Respondents to obtain a postponement of a previously scheduled hearing session.

Additional Forum Fees assessed to the parties are payable to the National Association of Securities Dealers, Inc.

Concurring Arbitrators' Signatures
Name

/S/ William M. Howard
William M. Howard, Esq.
Panel Chairperson
Public Arbitrator

June 2, 1993
Dated

/S/ Irving Lowe
Irving Lowe
Panelist
Public Arbitrator

June 3, 1993
Dated

/S/ William E. Saufley
William E. Saufley
Panelist
Industry Arbitrator

June 3, 1993
Dated

Date award served on the parties by the NASD: June 7, 1993