

NATIONAL ASSOCIATION OF SECURITIES DEALERS

National Association of
Securities Dealers, Inc.
NASD Financial Center
33 Whitehall Street
New York, New York 10004

In the Matter of the Arbitration Between

Name of Claimants

William Taylor & Marian Clark JTWROS

vs

90-03045

Name of Respondents

Financial Estate Planning
Southmark/Envicon Capital Corp.
Philip Roy, Sr.
Herbert Patrick Pollitt

Heard before the arbitrators of the Arbitration Panel:

Name

Jeffrey W. Letwin, Esq.

Public/Industry

Public-Chairperson

Harry E. Gerhard, Jr.

Public

John H. Ewing, Jr.

Industry

REPRESENTATION

Claimants

- Thomas F. McKeown, Esq.

Respondents

Financial Estate Planning	- Helen A. Roy
Southmark/Envicon Capital Corp.	- Tommy Bastian, Esq.
Philip Roy, Sr.	- Pro Se
Herbert Patrick Pollitt	- Pro Se

CASE SUMMARY

This claim was initiated by a Statement of Claim filed with the National Association of Securities Dealers, Inc. ("NASD") on October 31, 1990. Claimants alleges that Respondents gave them improper investment advice to sell their entire portfolio causing them to sustained unnecessary tax liability. Claimant also alleges that Respondent, Financial Estate Planning, billed Claimants for attorney's services when the alleged attorney was not licensed to practice law. Claimants further alleges that Respondents placed them in unsuitable investments including limited partnership, churned their account, made false representations about the competency of their employees and committed common law fraud. Claimants further allege that Respondents violated 18 U.S.C. Sections 1341, 1343 and Section 10(b) of the Exchange Act.

In a Joint Statement of Answer filed with the NASD on January 28, 1991, Respondents, Financial Estate Planning and Philip Roy, Sr., deny the allegations of wrongdoing and contend that all investments made by the Claimants were suitable. Respondents further allege that they are not liable to Claimants.

In a Statement of Answer filed with the NASD on December 24, 1990, Respondent, Southmark/Envicon Capital Corp. (SECC), contends that the Statement of Claim does not provide a definitive statement of alleged claims against SECC. Said Respondent denies all allegations contained in the Statement of Claim and asserts fourteen Affirmative Defenses.

Respondent, Herbert Pollitt, did not file a Statement of Answer but he appeared at the hearing as a witness for the Claimants. Mr. Pollitt did not defend allegations asserted against him as the same were withdrawn.

RELIEF REQUESTED

Claimants request that the panel award them \$425,000.00, which includes interest at nine percent, punitive and treble damages, pre-judgment interest, costs, including reasonable attorney's fees and filing fees.

Respondents request that the claims be denied in their entirety. Additionally, Respondent, SECC, requests that, alternatively, Claimants be required to replead its complaint with specificity against SECC and that SECC be awarded reasonable attorney's fees cost and expenses in an amount of not less than \$1,500.00. SECC further requests that Claimants be assessed all NASD costs of this action.

AWARD

On April 17, 1991, April 30, 1991 and May 1, 1991, in Pittsburgh, Pennsylvania, during a hearing lasting four (4) sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimants on October 16, 1990, signed by John W. Ford on behalf of Respondent, Financial Estate Planning, signed by Respondent, Philip Roy, on January 23, 1991, and signed by Tommy Bastian on behalf of Respondent, Southmark/Envicon Capital Corp., on January 25, 1991.

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.

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. After the commencement of the hearing, Claimants and Respondents,

Southmkark/Envicon Capital Corp. and Herbert Pollitt, entered into an agreement to dismiss the claims against said Respondents;

2. All claims asserted against the remaining Respondents are hereby dismissed in their entirety;

3. The parties shall each bear their respective costs including attorneys' fees.

FORUM FEES

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

1. The NASD shall retain the \$1,500.00 deposit previously made by the Claimants;
2. Claimants are assessed a non-refundable filing fee of \$500.00;
3. Forum costs for four hearing sessions at \$1,000.00 per sessions shall be split equally between the Claimants and Respondent, Financial Estate Planning;
4. Claimants are assessed \$2,000.00 in forum costs;
5. Respondent, Financial Estate Planning and Philip Roy, Sr., are jointly assessed \$2,000.00 in forum costs;

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

Concurring Arbitrator Signature


Harry E. Gerhard, Jr.

Date of Decision: 1 MAY '91

DATED BY NASD
JUNE 6, 1991

Southmark/Envicon Capital Corp. and Herbert Pollitt, entered into an agreement to dismiss the claims against said Respondents;

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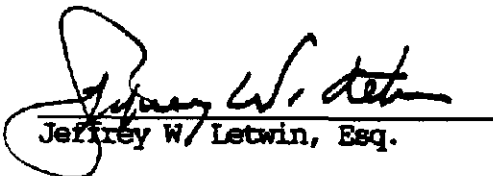
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Concurring Arbitrator Signature


Jeffrey W. Letwin, Esq.

Date of Decision:  April 30, 1991

DATED BY NASD
JUNE 6, 1991

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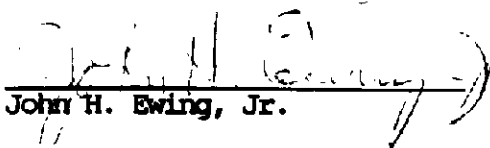
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Concurring Arbitrator Signature


John H. Ewing, Jr.

Date of Decision: 5-1-91 

DATED BY NASD
JUNE 6, 1991