

N.A.S.D. AWARD .

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Dominic & Clara Colletto

90-03176

Name of Respondent

J.C. Bradford & Co.

REPRESENTATION OF PARTIES

Dominic & Clara Colletto were represented by Michael A. Meyer, Esq. of Settles, Combos, Barrett & Sidwell, Nashville, TN.

J.C. Bradford & Co. was represented by James T. Ritt, Esq. and James G. Davis, Esq. of J.C. Bradford & Co., Nashville, TN.

CASE SUMMARY

In a statement of claim filed with the National Association of Securities Dealers, Inc. ("NASD") on or about November 9, 1990, Dominic and Clara Colletto ("Claimants") alleged that Charles Hill an employee of J.C. Bradford & Co. ("Respondent") made false and misleading statements with respect to their purchase of shares in Criterion U.S. Government Securities Fund and Putnam Convertible Income-Growth Fund. Claimants also alleged that they were unsophisticated investors and that these investments were unsuitable for them in light of their stated investment objectives. Claimants further alleged violations of Section 10(b) of the Securities Exchange Act of 1934 and Rule 10(b)5 promulgated thereunder, breach of fiduciary duty and violation of the NASD Rules of Fair Practice.

In its Answer filed with the NASD on or about March 11, 1991, Respondent stated that the claimants had received the prospectuses for the investments in question and that the prospectuses set forth the required disclosures regarding fluctuation in price. Respondents denied that Mr. Hill made any material misstatements or omissions. Respondents also asserted the affirmative defense that the claims are time barred by the applicable statutes of limitations.

RELIEF REQUESTED

Claimants requested an award in the amount of \$9,000.00, interest, costs and attorney's fees. Claimants also requested an award of punitive damages, if applicable.

Respondent requested that the Statement of Claim be dismissed.

PROCEDURAL MATTERS

On Thursday, September 12, 1991 in Nashville, Tennessee during a hearing lasting a total of one (1) session, the undersigned arbitrator heard the controversy between the parties as set forth in submissions to arbitration signed on October 12, 1990 by Claimants Dominic and Clara Colletto and on March 8, 1991 by R. Patrick Shepard on behalf of Respondent J.C. Bradford & Co.

AWARD

The arbitrator, having considered the pleadings, the testimony, and the evidence presented at the hearing, and the post hearing submissions of the parties, has decided in full and final resolution of the issues submitted for determination as follows:

1. Dominic and Clara Colletto are rather convincing as unsophisticated investors. Mr. Colletto testified that Charles Hill of J.C. Bradford assured him on several occasions that this investment was "safe" and they could not lose any of their principal. Mr. Colletto relied on Mr. Hill's assurances to invest \$41,515. in the Criterion High Yield Gov. Securities Fund and later sold the fund for \$32,850.23 (see exhibit #1). J. C. Bradford offered no witnesses to contradict Mr. Colletto but insisted Mr. Hill had no fiduciary obligation to the Collettos.

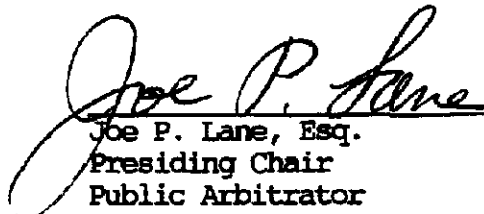
2. Regardless of legal theories a broker cannot induce a customer to invest by promising a specific return or result from an investment. The amount of the award is the difference between what the Collettos paid for the investment and the amount they received when they sold it or \$8,664.77. Therefore J.C. Bradford & Co. shall be and hereby is liable for and shall pay to the Claimants the sum of \$8,664.77.

3. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the non-refundable filing fee in the amount of \$75.00 and shall retain the hearing session deposit in the amount of \$200.00 previously deposited with the NASD by the Claimant as forum fees. Respondent J.C. Bradford & Co. shall pay to the Claimants the sum of \$200.00 as reimbursement of the hearing session deposit.

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

Dated:

Sept 25, 1991


Joe P. Lane, Esq.
Presiding Chair
Public Arbitrator

Date Served by NASD: 9-30-91