



N.A.S.D. AWARD

Arbitration

NATIONAL ASSOCIATION OF SECURITIES DEALERS

National Association  
Securities Dealers, Inc.  
NASD Financial Center  
33 Whitehall Street  
New York, N.Y. 10004  
FAX (212) 858-4389

In the Matter of the Arbitration Between

Name of Claimants

Rosalind Wells and Alfred Newburgh

90-03321

Name of Respondents

FSC Securities Corporation  
Richard L. Jaffe

REPRESENTATION

For Claimants Rosalind Wells and Alfred Newburgh ("Claimants"): Lloyd S. Clarendon, a sole practitioner.

For Respondent FSC Securities Corporation ("FSC"): Richard S. Mills of Lambert & Weiss.

For Respondent Richard L. Jaffe ("Jaffe"): William F. Dowling of Gold & Wachtel.

CASE INFORMATION

Statement of Claim filed: November 15, 1990.

Claimants' Submission Agreement signed on: November 15, 1990.

Statement of Answer filed by Respondent FSC on: March 5, 1991.

Respondent FSC's Submission Agreement signed on: July 2, 1991.

Statement of Answer filed by Respondent Jaffe on: March 5, 1991.

Respondent Jaffe's Submission Agreement signed on: July 19, 1991.

HEARING INFORMATION

Pre-Hearing Conference: October 26, 1991/1 session/Chair only.

Hearing Dates/Sessions: October 28, 1991/2 sessions.  
October 29, 1991/2 sessions.  
November 8, 1991/2 sessions.  
November 15, 1991/3 sessions.

Hearing Location: NASD, Inc./New York City.

AWARD  
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CASE SUMMARY

Claimants alleged Respondents recommended unsuitable investments; Respondent FSC failed to supervise Jaffe; Jaffe misrepresented his expertise in financial planning and misrepresented facts regarding investments; and that Jaffe and FSC promoted certain limited partnerships in order to generate large commissions.

Respondent FSC alleged the commission structure was disclosed on the first page of each prospectus; Jaffe advised Claimants of the commissions attributable to each investment; the investments were suitable; and that FSC discharged its supervisory responsibility with regard to Jaffe and the Claimants. Finally, FSC alleged that the NASD lacked jurisdiction to arbitrate Claimants' financial malpractice claims.

Respondent Jaffe alleged the NASD lacked jurisdiction to arbitrate Claimants' financial malpractice claims; the recommended investments were suitable; the commission structure was disclosed on the first page of each prospectus; he advised Claimants of the commissions attributable to each investment; and that FSC properly supervised his activities.

RELIEF REQUESTED

Claimants requested: compensatory damages (including imputed interest) in the amount of \$180,332.00; costs and attorneys' fees.

Respondent FSC requested: the matter be dismissed, plus costs and fees.

Respondent Jaffe requested: the matter be dismissed, plus costs and fees.

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- The Motion for Dismissal made jointly by Respondents is denied;

AWARD

#90-03321

- 2- Respondents are liable, jointly and severally, and shall pay to the Claimants the sum of SIXTY ONE THOUSAND SEVEN HUNDRED FORTY FIVE 00/100 DOLLARS (\$61,745.00);
- 3- All other claims are dismissed;
- 4- Each side shall bear its own costs, including attorneys' fees.

**FORM FEE**

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the NASD shall retain the \$200.00 non-refundable filing fee previously deposited by Claimants and the following Forum Fees are assessed.

1 pre-hearing session X \$300.00 = \$300.00  
9 hearing sessions X \$750.00 = \$2,250.00

Forum fees Assessed Against:

- 1- Claimants in the amount of \$1,275.00; however, Claimants may use their \$750.00 hearing session deposit to offset part of that amount; therefore, the amount due and owing equals \$525.00;
- 2- Respondents, jointly and severally, in the amount of \$1,275.00.

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

**CONCERNING ARBITRATORS**



**Robert Seaman, Public Arbitrator**



LOUIS S. OLENICK  
NOTARY PUBLIC, State of New York  
No. 48-36651  
Qualified in New York County  
Commission Expires Sept. 30, 1993

Date of Decision: January 15, 1992

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AWARD  
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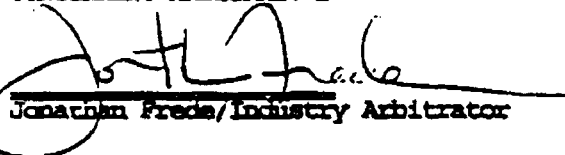
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CONCURRING ARBITRATORS

  
Jonathan Frede/Industry Arbitrator

Date of Decision: January 15, 1992

AWARD  
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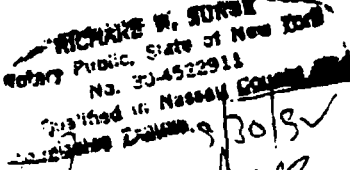
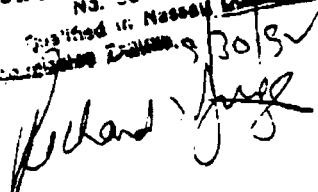
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CONCURRING ARBITRATORS

  
Frank D'Elia/Public Arbitrator

Sworn to before me  
this 7<sup>th</sup> day of  
January 1992

Date of Decision: January 15, 1992