

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

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In the Matter of the Arbitration Between :

Alan LaBonde :

Claimant :

vs. :

First Affiliated Securities :  
Gary Finke :

Respondents :

CASE #91-00040  
AWARD

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on January 3, 1991, Claimant Alan LaBonde who appeared Pro Se, alleged that Respondent Gary Finke recommended the unsuitable investment of a Limited Partnership named Equitee 81. The Claimant further alleged that both Respondents, First Affiliated Securities and Gary Finke, breached their fiduciary duty by recommending this investment without performing proper due diligence.

Respondent, First Affiliated Securities, maintained that they were without sufficient knowledge regarding the Claimant's allegations and therefore deny them. Respondent, First Affiliated Securities filed a third party claim against Respondent Pacific Financial Holding stating that an agreement to indemnify and hold First Affiliated Securities harmless from and against any liabilities and expenses imposed upon First Affiliated Securities arising out of the purchase of the investment in question.

Due to the fact that Pacific Financial Holding is not a member of the National Association of Securities Dealers, Inc., they were not compelled to this proceeding and Pacific Financial Holding chose not to submit on a voluntary basis.

Respondent Gary Finke maintained that he used the best information available in suggesting a product which was a suitable investment choice for higher risk/return portion of the Claimant's portfolio. Respondent Finke further maintained that he fully disclosed the nature of the investment to the Claimant.

RELIEF REQUESTED

Claimant, Alan LaBonde requested \$6,696.00 in actual damages, and \$1,500.00 in punitive damages, and the return of the sales commission.

Respondent, First Affiliated Securities requested total indemnity regarding the claims of the Claimant and that the claims of the Claimant be dismissed.

Respondent, Gary Finke requested the claims of the Claimant be dismissed.

AWARD

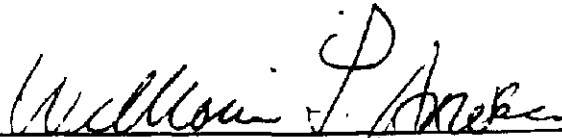
Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, William L. Hawes, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on March 26, 1991 and by the Respondent Gary Finke on March 20, 1991 and not signed by Respondent First Affiliated Securities as required by Sections 12 & 13 of the NASD Code of Arbitration Procedure.

And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. The Respondents First Affiliated Securities and Gary Finke are jointly and severally liable and shall pay to Claimant Alan LaBonde \$6,696.00 in actual damages.
2. The Claimant Alan LaBonde's request for punitive damages and return of the commissions he paid is denied.
3. The parties shall bear their respective costs.
4. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc. Respondents First Affiliated Securities and Gary Finke are jointly and severally liable and shall pay \$150.00 to the Claimant as reimbursement.

AFFIRMATION

I, WILLIAM L. HAWES, do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.

A handwritten signature in cursive script, appearing to read "William L. Hawes", is written over a horizontal line.

Signature of Arbitrator

DATE OF DECISION: February 25, 1992