



Arbitration

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

National Association of
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 Claimant

Frank A. Ciaramitaro Trust, et al.

vs.

Case #
91-00527

Name of Respondents

Invest Financial Corp.
ISFA Corp.

REPRESENTATION

For Claimant: William M. Dolan III, Esq. of Brown Rudnick Freed & Gesmer.

For Respondent: Eugene B. Harper, Esq. in-house counsel.

CASE INFORMATION

Statement of Claim filed: February 15, 1991.

Claimant's Submission Agreement signed on: February 11, 1991.

Joint Statement of Answer filed by Respondents, Invest Financial Corporation
and ISFA Corporation, on: July 03, 1991.

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

HEARING INFORMATION

Hearing Date/Hearing Sessions: November 19, 1991 - Two sessions.

Hearing Location: Boston, Massachusetts.

CASE SUMMARY

Claimant, Frank A. Ciaramitaro Trust, by its trustee Frank A. Ciaramitaro, alleges that the trustee is a functional illiterate who was advised by employees of Respondents who represented themselves to be employees of the bank where the trustee worked, to purchase 25 units of Fox Strategic Housing

Income Partners real estate limited partnership for the Trust. Claimant further alleges that the trustee was provided with a 198-page prospectus and he attempted to rescind the investment on many occasions but to no avail. Claimant also alleges that the investment then declined in value.

Respondents deny liability and contend that the purchase of the limited partnership was consistent with Claimant's investment objectives. Respondents assert nine affirmative defenses. Respondents allege that they recommended that Claimant purchase securities which would provide the Trust with a diversified portfolio. Respondents further allege that Claimant indicated that he would review the prospectus for each product with his accountant before making a decision. Respondents deny that Claimant immediately requested a rescission. They contend that Claimant's accountant asked if the transaction could be rescinded in February, 1989, and was told that the program was closed and that there was no secondary market to secure bids for the units. Respondents further contend that they obtained a bid for the securities and Claimant refused to accept offer.

RELIEF REQUESTED

Claimant requests that this arbitration rescind the transaction and return the \$25,000.00 investment with interest, costs and attorney's fees.

Respondents request that this arbitrator deny the claims, dismiss it in its entirety and award them costs including reasonable attorney's fees incurred in connection with defending this action.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents, Investment Financial Corp. and ISFA Corporation, are hereby jointly and severally liable to Claimant and shall rescind the transaction;
2. Respondents are jointly and severally liable and shall pay Claimant Twenty Five Thousand Dollars and Zero Cents (\$25,000.00), upon the condition that contemporaneous with the tender of said amount by Respondents to Claimant, the Claimant shall tender to the Respondents and shall sign all documents necessary to effect the transfer to Respondents of the units of the Fox Strategic Housing Income Partners Limited Partnership;
3. The claim for interest is denied;
4. The claim for attorney's fees is denied;

5. All other claims are denied.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed and any fees assessed shall be offset by the amount deposited.

1. The NASD has received the \$100.00 non-refundable filing fee paid by the Claimant;
2. The NASD has received the \$300.00 hearing session deposit previously made by the Claimant;
3. Claimant is assessed \$100.00 non-refundable filing fees;
4. Respondents are jointly and severally assessed \$600.00 for two hearing sessions at \$300.00 per session;
5. Respondents shall satisfy this assessment by reimbursing Claimant \$300.00 and remitting the balance \$300.00 to the NASD.

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

Arbitrator's Signature


Robert Volk, Esq.

Sole Public Arbitrator

Date of Decision:

11/27/91