

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Anna M. Guida, Trustee

91-00630

Name of Respondent(s)

Sun Investment Services, Co.
Nicholas Rogoff

REPRESENTATION

For Claimant: James R. Kauffman, Esq. of P.O. Box 481, Millbrae, CA 94030-5481

For Respondent Sun Investment Services, Co.: George G. Weickhardt, Esq. of Adams, Duque & Hazeltine, 500 Washington Street, Sixth Floor, San Francisco, CA 94111

For Respondent Nicholas Rogoff: Richard A. Littorno, Esq. of 39 Quail Court, Suite 300, Walnut Creek, CA 94596

CASE INFORMATION

Statement of Claim filed: February 20, 1991

Claimant's Submission Agreement signed on: March 19, 1991

Statement of Answer filed by Respondents Sun Investment Services, Co. on April 29, 1991 and Nicholas Rogoff on June 6, 1991.

Respondents Sun Investment Services, Co.'s Submission Agreement signed on April 1, 1991 and Nicholas Rogoff on May 28, 1991

HEARING INFORMATION

Hearing Date(s)/Sessions: November 14 and 15, 1991, four sessions

Hearing Location: San Francisco, California

CASE SUMMARY

Claimant alleged breach of fiduciary duty, unsuitability, fraud, negligent misrepresentation, concealment, breach of contract, breach of implied covenant of good faith and fair dealing, lack of supervision and respondent superior in the purchases of Massachusetts Financial Services mutual funds.

Respondents denied all substantive allegations of the Statement of Claim.

RELIEF REQUESTED

Claimant requested:

1. Compensatory damages according to proof, but not less than \$45,000.00;
2. General damages according to proof, but not less than \$25,000.00;
3. Punitive damages according to proof, but not less than \$30,000.00;
4. Reasonable attorney's fees;
5. Costs; and
6. Such further relief as the panel deems appropriate.

OTHER ISSUES CONSIDERED & DECIDED

None.

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. All claims are dismissed.
2. The claim for punitive damages is dismissed.
3. The parties shall each bear their respective costs including attorneys' fees.

OTHER COSTS

None.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the NASD shall retain the \$500.00 filing fee previously deposited by the claimant.

ARBITRATION PANEL

Name

Albert Loeb Boasberg

Public/Industry

Public

Industry

Public

Concurring Arbitrators - Signatures

Albert Loeb Boasberg
Albert Loeb Boasberg

DATE SERVED: 12/03/91

Date of Decision: _____