

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Cecilia M. Gallucci, C/P
Michael S. Galucci Under NJ Uniform
Gifts to Minors Act and Michael A.
Galucci

91-01051

Name of Respondent(s)

Janney Montgomery Scott Inc.
Patricia Nuovo
Earl Marks
Stephen Waitneight

REPRESENTATION

For Claimant: The Claimants ~~appeared~~ pro se.

For Respondents Janney Montgomery Scott, Inc., Earl Marks, and Stephen Waitneight: Richard Israel, Esq. of Archer & Greiner in Hackensack, New Jersey.

Respondent Patricia Nuovo appeared pro se.

CASE INFORMATION

Statement of Claim filed: April 1, 1991.

Claimant's Submission Agreement signed on: March 29, 1991.

Submission Agreement of Janney Montgomery Scott, Inc. signed on: June 5, 1991.

Submission Agreement of Earl Marks signed on: June 5, 1991.

Submission Agreement of Stephen Waitneight signed on: June 5, 1991.

Joint Statement of Answer of Janney Montgomery Scott, Inc. Earl Marks and Stephen Waitneight filed on: June 10, 1991.

Patricia Nuovo did not sign a Submission Agreement or file a Statement of Answer as required by Sections 12 and 25 of the Code of Arbitration Procedure despite notice of the proceeding being given on August 16, 1991.

Patricia Nuovo did appear at the hearing on January 15, 1992.

HEARING INFORMATION

Hearing Date/Sessions: January 15, 1992/two sessions

Hearing Location: Philadelphia, Pennsylvania

CASE SUMMARY

Claimants alleged that Respondents violated their duty to give full disclosure and made unsuitable recommendations in the purchase and sale of Southmark bonds. Claimants further alleged that Respondents failed to meet their investment objectives, failed to supervise their account, and were negligent in their fiduciary responsibilities to the Claimants. Respondents Janney Montgomery Scott, Inc., Earl Marks, and Stephen Waitneight maintained that the Claimants did not retain them as investment advisors, that Respondents relayed all information know to them regarding Southmark bonds, and denied that they misled the Claimants or acted in a negligent manner. Respondent Patricia Nuovo did not file a Statement of Answer to the Statement of Claim.

RELIEF REQUESTED

Claimants requested compensatory damages of \$13,476.00 for a principal amount due in November 1989, \$816.00 for interest due in November 1989, \$10,000.00 in compensatory damages for loans incurred to compensate for funds not available in November 1989, and punitive damages of \$25,000.00.

Respondents Janney Montgomery Scott, Inc., Earl Marks, and Stephen Waitneight requested that the claims of the Claimants be dismissed. Respondent Patricia Nuovo did not file a Statement of Answer to the Statement of Claim.

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 claims of the Claimants against the Respondents Janney Montgomery Scott, Inc., Earl Marks, Stephen Waitneight, and Patricia Nuovo be and hereby are dismissed in their entirety.

(2) The Claimants' claim for punitive damages be and hereby is denied.

OTHER COSTS

(1) The parties shall bear their respective costs.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed:

(1) The NASD, Inc. shall retain the \$400.00 hearing session deposit previously deposited with the NASD, Inc.

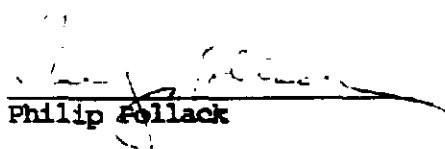
(2) Respondent Janney Montgomery Scott, Inc. is assessed \$400.00 in forum fees.

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

Concurring Arbitrators' Signatures

Name

1)


Philip Pollack

Public Arbitrator

Date of Decision: February 18, 1992