

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

---

In the Matter of the Arbitration Between

Name of Claimants

Judy and Mirle Freal, Jr.

91-01659

Name of Respondents

Integrated Financial Services  
FSC Securities Corporation  
Richard E. Connolly  
Marlis Gilbert

---

REPRESENTATION

For Claimants: Linda Garofola, Esq. of Reynolds, Motl, Sherwood and Wright, Helena, Montana.

For Respondents Integrated Financial Services and Richard E. Connolly: Richard E. Connolly, Jr., Esq. of Des Moines, Iowa. For Respondent FSC Securities Corporation: Richard A. Malm, Esq. of Dickinson, Throckmorton, Parker, Mannheim & Raife, P.C. Des Moines, Iowa. For Respondent Marlis Gilbert: Thomas Henderson, Esq. of Whitfield, Musgrave & Eddy, Des Moines, Iowa.

CASE INFORMATION

Statement of Claim filed: May 30, 1991.

Claimant's Submission Agreement signed on: May 22, 1991.

Conditional Statement of Answer and Statement of Answer filed by Respondents, Integrated Financial Services and Richard Connolly, Jr. on: August 16, 1991. Motion To Dismiss the Proceeding Pursuant To Sections 15, 16, and 25, Conditional Filing of Statement of Answer, and Statement of Answer filed by Respondent FSC Securities Corporation on: August 14, 1991. Statement of Answer filed by Marlis Gilbert on: August 15, 1991.

Respondents, Integrated Financial Services's and Richard Connolly's Submission Agreements signed on: August 14, 1991. Respondent, FSC Securities Corporation's Submission Agreement signed on: August 7, 1991. Respondent Marlis Gilbert's Submission Agreement signed on: August 14, 1991.

HEARING INFORMATION

Hearing Dates/Sessions: July 7, 1992 for two (2) sessions,  
July 8, 1992 for two (2) sessions,  
July 9, 1992 for one (1) session.

Hearing Location: Minneapolis, Minnesota.

CASE SUMMARY

Claimants, Judy and Mirla Freele, Jr. ("Freele") alleged that Respondent Integrated Financial Services ("Integrated") and Respondent, Richard Connolly ("Connolly") President of Integrated, through its agent, Respondent Marlis Gilbert ("Gilbert") a Certified Financial Planner, recommended unsuitable investments inconsistent with the Freeles' financial objectives. More specifically, the Freeles alleged that Gilbert advised them to sell all of their presently held securities, and to withdraw funds from various accounts. The Freeles also alleged that Gilbert also advised them to mortgage their home, which was without debt. The Freeles further alleged that Gilbert advised them that they could achieve their financial goals through the purchase of the following limited partnerships: Avalon Limited Partnership, Centennial Dev. Real Estate IV Limited Partnership, Energy Methods Limited Partnership, Allentown Limited Partnership, Equitec Limited Partnership, and 400 shares in Lev Scientific. The Freeles alleged that Respondents Integrated, FSC Securities Corporation ("FSC") and Connolly, President of Integrated and Registered Principal of FSC, failed to supervise the activities of Gilbert.

Respondents Integrated and Connolly filed a Conditional Answer containing a Motion To Dismiss the claims pursuant to Sections 1, 12, 15, 16, and 25 of the Code. In their Answer, filed without prejudice to the Motion, Integrated and Connolly alleged that the Freeles, after much consultation and after being given the required securities disclosure, made their own financial decisions. Integrated and Connolly also denied that either or both are responsible for any wrongful act of Gilbert in giving investment advice.

Respondent FSC filed a Conditional Answer containing a Motion To Dismiss the claims pursuant to Sections 15, 16, and 25 of the Code. In their Answer, filed without prejudice to the Motion, FSC alleged that they properly supervised their representatives. FSC further alleged that the Freeles made all of the investment decisions.

Respondent Gilbert generally denied the allegations set forth in the Statement of Claim. Gilbert alleged that she provided an investment plan in accordance with the Freeles "Psychological Questionnaire." Gilbert alleged that the plan was designed to provide income, growth, and tax benefits. Gilbert further alleged that the Freeles were provided with prospectuses for each investment, and that the Freeles met any suitability requirements.

RELIEF REQUESTED

Claimants requested actual damages, against all of the Respondents, jointly and severally, in the amount of \$81,000.00, interest for the loss of their principal in the amount of \$56,000.00, plus reasonable attorney's fees and treble damages, and their initial filing fee as well as punitive damages, totalling \$500,000.00, and that the panel assess any additional hearing costs against the Respondents.

Respondents Integrated and Connolly denied liability for the alleged damages, that damages have been sustained in the amounts the Claimants have alleged or that Integrated and Connolly are legally responsible for any such losses that may have occurred. Respondent FSC denied liability as alleged above. Respondent Gilbert requested that the arbitrators deny each and every claim for relief in the Statement of Claim, and dismiss the Claimant's 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.

The arbitrators have determined that the official record of the hearing will be the stenographic transcript.

The arbitrators denied Respondents Integrated, Connolly, and FSC's motions on Sections 1, 12, 15, 16, and 25 of the Code.

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. Respondents Integrated Financial Services, Richard Connolly, Jr., FSC Securities Corporation, and Marlis Gilbert shall be and hereby are jointly and severally liable for and shall pay to the Claimants Judy and Mirle Freel, Jr., damages in the amount of One Hundred Twenty Two Thousand Four Hundred Twenty One Dollars and No Cents (\$122,421.00);
2. The Claimant's request for punitive and treble damages is denied;
3. Each of the parties shall bear their own costs and expenses incurred, including attorney's fees, other than those specifically enumerated for herein.

FORUM FEES

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

5 sessions X \$750 = \$3750 minus hearing session deposit of \$750 = net \$3000 due.

Forum fees Assessed Against Respondents Integrated Financial Services, Richard Connolly, FSC Securities Corporation, and Marlis Gilbert, jointly and severally, in the amount of \$3000. The Respondents, jointly and severally, shall also reimburse to the Claimants the amount of \$950, which represents the filing fee and hearing session deposit which was previously deposited by the Claimants with the NASD.


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

By The Arbitration Panel:

DATED:

\_\_\_\_\_  
Janice K. Frankman, Esq., Chairperson  
Public Arbitrator

\_\_\_\_\_  
Howard James Seesel, Jr.  
Public Arbitrator

  
\_\_\_\_\_  
Kelly T. Coughlin  
Industry Arbitrator

\_\_\_\_\_  
7/25/92  
\_\_\_\_\_

DATE AWARD SERVED BY THE NASD: \_\_\_\_\_

FORUM FEES

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

5 sessions X \$750 = \$3750 minus hearing session deposit of \$750 = net \$3000 due.

Forum fees Assessed Against Respondents Integrated Financial Services, Richard Connolly, FSC Securities Corporation, and Marlis Gilbert, jointly and severally, in the amount of \$3000. The Respondents, jointly and severally, shall also reimburse to the Claimants the amount of \$950, which represents the filing fee and hearing session deposit which was previously deposited by the Claimants with the NASD.

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

By The Arbitration Panel:

DATED:

\_\_\_\_\_  
Janice K. Frankman, Esq., Chairperson  
Public Arbitrator

\_\_\_\_\_  
*Howard James Seesel, Jr.*  
Howard James Seesel, Jr.  
Public Arbitrator

\_\_\_\_\_  
*July 23 1992*  
\_\_\_\_\_

\_\_\_\_\_  
Kelly T. Coughlin  
Industry Arbitrator

DATE AWARD SERVED BY THE NASD: \_\_\_\_\_

FORUM FEES

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


5 sessions X \$750 = \$3750 minus hearing session deposit of \$750 = net \$3000 due.

Forum fees Assessed Against Respondents Integrated Financial Services, Richard Connolly, FSC Securities Corporation, and Marlis Gilbert, jointly and severally, in the amount of \$3000. The Respondents, jointly and severally, shall also reimburse to the Claimants the amount of \$950, which represents the filing fee and hearing session deposit which was previously deposited by the Claimants with the NASD.

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

By The Arbitration Panel:

DATED:

  
\_\_\_\_\_  
Janice K. Frankman, Esq., Chairperson  
Public Arbitrator

  
\_\_\_\_\_  
July 23, 1992

\_\_\_\_\_  
Howard James Seesal, Jr.  
Public Arbitrator

\_\_\_\_\_  
Kelly T. Coughlin  
Industry Arbitrator

DATE AWARD SERVED BY THE NASD: \_\_\_\_\_