

NATIONAL ASSOCIATION OF SECURITIES DEALERS

N.A.S.D. BOARD

Arbitration

National Association of  
Securities Dealers, Inc.  
One East Broward Boulevard  
Suite 1000  
Ft. Lauderdale, Florida 33301  
(305) 522-7391

In the Matter of the Arbitration Between

Name of Claimant(s)

Virginia R. Livigni

91-01809

Name of Respondent(s)

Raymond, James & Associates, Inc.  
Phil J. Horowitz

REPRESENTATION

Claimant, Virginia R. Livigni was pro se.

For Respondents, Raymond James & Associates, Inc. ("Raymond James") and Phil Horowitz ("Horowitz"): Kevin Carreno, Esq. of Raymond James.

CASE INFORMATION

Statement of Claim filed: July 2, 1991. Claimant's Submission Agreement signed on: May 22, 1991.

Respondents Statement of Answer filed: July 30, 1991. Respondents Submission Agreement signed by Horowitz on September 9, 1991, and by Dennis W. Zark on behalf of Raymond James on July 30, 1991.

HEARING INFORMATION

On January 24, 1992, in Fort Lauderdale, Florida, a hearing lasting two (2) sessions was conducted.

CASE SUMMARY

Claimant alleged that Respondents were liable for misrepresenting the risks involved in investing in VMS real estate investment trust and failing to execute a sell order.

Respondents denied all allegations of wrongdoing and alleged that: Claimant's investment objectives were long term growth and income; Claimant was aware of the risks involved and assumed such risks; and Claimant failed to mitigate her damages. Respondent asserted the affirmative defenses of laches and estoppel.

RELIEF REQUESTED

Claimant requested damages in the amount of \$6,525.00.

Respondents' requested dismissal of the claim plus costs and attorney's fees.

OTHER ISSUES CONSIDERED & DECIDED

None.

AWARD

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

1. Respondents, Raymond James and Horowitz, are found not liable and, therefore, all claims against them are hereby dismissed.
2. Respondents' request for attorney's fees and costs is denied.

OTHER COSTS

The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Arbitrator has assessed forum fees in the amount of \$200.00 (1 session x \$200.00). Claimant is hereby assessed \$200.00 for which the NASD shall retain the \$200.00 previously deposited in full satisfaction thereof.

Arbitrator's Signature

Name

  
Monica I. Salis, Esq.

Public/Industry

Public

Date of Decision: February 27, 1992