

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between)

Name of Claimant(s))

Margaret Seaton)

vs.)

Name of Respondent(s))

Advest, Inc.)

Bruce L. Minkin)

Charles Obsusin)

Case No: 91-02170

REPRESENTATION

For Claimant, Margaret Seaton ("Seaton"): Russell L. Forkey, Esq.

For Respondents, Advest, Inc. ("Advest"), Bruce L. Minkin ("Minkin") and Charles Obsusin ("Obsusin"): Jack Stein, Esq. of Stein, Rosenberg and Winikoff.

CASE INFORMATION

Statement of Claim filed: July 15, 1991. Claimant's Submission Agreement signed: July 21, 1991.

Respondents' Joint Statement of Answer filed: August 19, 1991. Respondents' Submission Agreements signed: August 7, 1991 by Minkin and Obsusin, and by Lee G. Kuckro on behalf of Advest on September 3, 1991.

HEARING INFORMATION

On November 22, 1991, in Fort Lauderdale, Florida, a Pre-hearing Conference lasting 1 session was conducted via telephone conference call with an arbitrator.

On February 18, and March 2 and 3, 1992, in Fort Lauderdale, Florida, hearings lasting 6 sessions were conducted.

CASE SUMMARY

Claimant alleged that she advised Respondents, through Obsusin, of her investment objective of income without risk; that Respondents made misrepresentations of and omitted to state material facts; disregarded

Claimant's objectives; recommended and made unsuitable transactions in Coleco Bonds and in LL & E Royalty Trust; that Respondents' actions constitute fraud and deceit, breach of fiduciary duty, negligence, breach of contract and negligent supervision.

Respondents denied all allegations of wrongdoing and alleged the affirmative defenses of investments experience, knowledge and assumption of risk; losses not proximately caused by unlawful conduct of Respondents; and, account handled in accord with industry standards and guidelines and all regulatory requirements.

RELIEF REQUESTED

Claimant requested damages in the amount of \$49,000.00, interest, costs and other relief.

Respondents requested an Award in favor of Respondents; dismissal with prejudice; costs and expenses; and, other relief.

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

OTHER COSTS

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

FORUM FEES

1. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount of \$2,700.00 (one pre-hearing conference x \$300.00 plus six sessions x \$400.00). Respondents are hereby assessed \$2,700.00, jointly and severally, \$1,200.00 of which shall be paid directly to Claimant. The remaining \$1,500.00, less credit for the \$1,200.00

previously deposited for additional session deposits leaving a balance of \$300.00, shall be paid to the National Association of Securities Dealers, Inc.

2. Further, the Respondents, jointly and severally, shall reimburse the Claimant the \$120.00 previously paid as a non-refundable filing fee.

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

Concurring Arbitrators' Signatures

151
David Untenberg, Esq.

Public

151
Paul E. Barr

Industry

Dissenting Arbitrator's Signature

151
Philip F. Ludovici, Esq.

Public

Date of Decision: March 19, 1992