

Corrected

Arbitration

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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))

Helen R. Mandel)

Case No. 91-02214

Name of Respondent(s))

Equico Securities, Inc.)

Equitable Life Assurance Society)

Martin Cohen)

REPRESENTATION

For Claimant, Helen R. Mandel ("Mandel"): Michael Hanzman, Esq. of Zack, Hanzman, Ponce & Tucker, P.A.

For Respondents, Equico Securities, Inc. ("Equico"), Equitable Life Assurance Society ("Equitable Life") and Martin Cohen ("Cohen"): Richard Leslie, Esq. of Shutts & Bowen.

CASE INFORMATION

Statement of Claim filed: July 19, 1991. Claimant's Submission Agreement signed: July 11, 1991.

Respondents' Statement of Answer filed: September 19, 1991. Respondents' Submission Agreements signed by Thomas Foley on November 6, 1991 on behalf of Equitable Life, by Raymond Barry on November 11, 1991 on behalf of Equico, and on August 26, 1991 by Cohen.

HEARING INFORMATION

On April 2, 1992, in Fort Lauderdale, Florida, a Pre-hearing Conference lasting one (1) session was conducted via telephone conference call with an arbitrator.

On August 5, and 6, 1992, in Fort Lauderdale, Florida hearings lasting four (4) sessions were conducted.

CASE SUMMARY

Claimant alleged that Respondents were liable for breach of fiduciary duty; negligence; and, violation of Florida Statutes Chapter 517. Claimant alleged that Cohen misrepresented the safety of certain mutual funds and that Cohen's recommendation that Claimant purchase those mutual funds was inconsistent with Claimant's investment objectives.

91-02214: Award

Respondents denied all allegations of wrongdoing and alleged that Claimant was a sophisticated investor and was aware of the risks involved and Claimant had other advisors to turn to for advice.

RELIEF REQUESTED

Claimant requested rescission of the purchases, damages plus interest and costs.

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

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 arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent, Cohen, is found not liable, and, therefore, all claims against him are hereby dismissed.
2. Respondents, Equico and Equitable Life, are found liable, jointly and severally, and shall pay to the Claimant the amount of \$55,000.00 as damages. Claimant is entitled to retain the investments at issue.
3. Claimant's request for costs is denied.
4. 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

1. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount of \$2,300.00 (one Pre-hearing Conference x \$300.00 plus four sessions x \$500.00).
2. Respondent, Equico, is hereby assessed \$2,300.00, \$500.00 of which shall be paid directly to the Claimant, and \$1,800.00, of which shall be paid to the National Association of Securities Dealers, Inc.
3. The NASD shall retain the non-refundable filing fee of \$150.00 paid by the Claimant.

91-02214 Award

4. Respondent, Equico, shall reimburse the Claimant \$150.00 for the non-refundable filing fee.

5. The NASD shall retain the session deposit of \$500.00 paid by Claimant in partial satisfaction of such fees.

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

Concurring Arbitrators' Signatures

/s/
Myron Dunay, Esq.

Public

/s/
Andrew Bartfay

Public

/s/
Warren A. Forest

Industry

Date of Decision: August 21, 1992