

PUBLIC

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

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In the Matter of Arbitration Between	:	
	:	
Thomas E. & Evelyn Miller	:	
	:	
Claimants	:	CASE #91-02273
	:	AWARD
vs.	:	
	:	
West America Investment Co.	:	
Richard T. Whalen	:	
	:	
Respondents	:	

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CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on July 25, 1992, Claimants Thomas E. & Evelyn Miller, who appeared Pro Se, alleged that Respondents West America Investment Co. and Richard T. Whalen recommended the sale of their corporate Bonds and the purchase of tax free funds, and they later discovered that their investments were in Junk Bonds, which were unsuitable, considering the Claimants age and financial objectives.

Respondent, West America Investment Co. through its in-house representative, William F. Groszkruger, maintained that since the basis for the Claimants' complaints revolve around a January 1990 transaction, they cannot be held liable, because West America was not formed until February 1990. The Respondents further maintained the investments were suitable based on the Claimants' securities holdings, financial situation and needs, and that they were not misled as to the nature of the investments.

Respondent, Richard T. Whalen, who appeared Pro Se, maintained that the investment was suitable, and at the time he recommended it, it was a professionally managed, well diversified corporate Bond Mutual Fund. Respondent Whalen further maintained that a majority of the loss took place prior to the account transfer, and that his recommendations were made in the Claimants' best interest. Respondent Whalen filed a Statement supplementing the original answer in which he maintained he thoroughly discussed the investments and thought the Claimants understood the strategy they discussed.

RELIEF REQUESTED

Claimants, Thomas E. & Evelyn Miller requested \$10,000.00 in actual damages, plus costs.

Respondent, West America Investment Co. requested the claims of the Claimant be dismissed.

Respondent, Richard T. Whalen requested the claims of the Claimant be dismissed.

AWARD

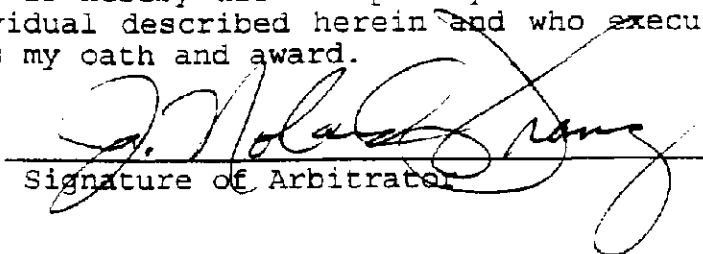
Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, J. Noland Franz, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on May 15, 1992, by the Respondent West American Investment Co. on February 24, 1992 and by Respondent Richard T. Whalen on December 16, 1991.

And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. The claims of the Claimants, Thomas E. & Evelyn Miller against Respondents, West American Investment Co. & Richard T. Whalen are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants shall be retained by the National Association of Securities Dealers, Inc.

AFFIRMATION

I, J. NOLAN FRANZ, do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.

  
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Signature of Arbitrator

DATE OF DECISION: September 28, 1992