

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Name of Claimant

Milton Nevitt

91-02342

Name of Respondents

Tucker Anthony Incorporated
John Hancock Clearing Corporation
Lucas P. Hriston

REPRESENTATION

For Claimant: David B. Newman, Esq. of the law firm of Cooperman Levitt
& Winikoff, P.C.

For Respondents: Paul A. Lieberman, Esq.

CASE INFORMATION

Statement of Claim filed on: July 31, 1991.

Claimant's Submission Agreement signed on: July 16, 1991.

Joint Statement of Answer filed by Respondents on: September 23, 1991.

Respondent Tucker Anthony Inc.'s Submission Agreement signed on: December 5,
1991.

Respondent John Hancock Clearing Corporation's Submission Agreement signed
on: December 5, 1992.

Respondent Lucas P. Hriston's Submission Agreement signed on: December 5,
1991.

HEARING INFORMATION

Hearing Date/Session: March 5, 1992, 1 Session.

Hearing Location: NASD offices located in New York City, NY.

CASE SUMMARY

Claimant alleged that Respondents recommended that the Claimant purchase certain corporate bonds and Claimant indicated he would not purchase the bonds unless they were insured and Respondent Lucas P. Hriston unequivocally represented the bonds were insured and in reliance upon this representation, Respondent Lucas P. Hriston induced the Claimant into purchasing the bonds. Claimant further alleged he independently verified that the bonds were not insured and if the bonds were insured he would not have lost the principal of the bonds and would have been paid by the insurer. Claimant further alleged Respondents Tucker Anthony Incorporated and John Hancock Clearing Corporation are liable for the actions of Respondent Lucas P. Hriston under the theory of respondeat superior and they failed to properly supervise Respondent Lucas P. Hriston.

Respondents denied that Claimant indicated he would not purchase bonds unless they were insured and denied that Respondent Lucas P. Hriston unequivocally represented that the bonds purchased by Claimant were "insured". Respondents further maintained all transactions were authorized and approved by Claimant and by his failure to timely object to any of the transactions of which he now complains, Claimant ratified and approved the bond purchase and is estopped from complaining or seeking damages from Respondents and Claimant was a sophisticated and experienced investor and businessman who sought high yield instruments primarily for the support of his mother.

RELIEF REQUESTED

Claimant requested damages of \$75,000.00 and such other and further relief as to this Tribunal may seem just and proper.

Respondents requested dismissal of all claims against them.

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:

Shortly before the scheduled hearing date of March 5, 1992, Claimant's counsel requested an adjournment of these hearings alleging that discovery was incomplete. Claimant took no steps to compel discovery and refused to pay the requisite adjournment fee. That request was denied.

The panel, prior to the commencement of the hearing, called the law firm

representing Claimant. The panel was advised that Mr. Newman, counsel of record for Claimant, was "out of town". Next, the Chairman asked to speak with the Managing Partners of that law firm or any one of its other seven partners. The Chairman was advised that none of the latter were available. In view of the foregoing, the panel proceeded with the hearing. The registered representative, Mr. Hriston, testified on behalf of Respondents. Respondents also introduced into evidence complete documentation as to the handling of the accounts in issue. After hearing, the panel makes its award in favor of Respondents and against the Claimant.

Each party shall bear their respective costs, including attorneys' fees.

FORUM FEES


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

\$500.00 X 1 Session = \$500.00 minus hearing session deposit of
\$400.00 = net \$100.00 due.

The Claimant be and hereby is liable and shall pay to the NASD the sum of \$100.00 to represent the balance of the forum fees and the sum of \$150.00 to represent the claim filing fee.

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

CONCURRING ARBITRATORS' SIGNATURES


Michael J. Shalley, Esq.

Public Arbitrator


Charles C. Marotta

Public Arbitrator


John B. Ryan

Industry Arbitrator

Date of Decision: April 9, 1992

STATE: NEW JERSEY

SS:

COUNTY OF: MONMOUTH

On this 31st day of MARCH, 1992, before me personally appeared Michael J. Shalley known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same

Dolores A. Crawford
DOLORES A. CRAWFORD
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES APRIL 29, 1998

STATE: N.Y.

SS:

COUNTY OF: NASSAU

On this 6 day of APRIL, 1992, before me personally appeared Charles C. Marotta known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same

Marcella D. Frank
MARCELLA D. FRANK
NOTARY PUBLIC OF NEW YORK
100-730-444
Qualified in Nassau County
Commission Expires March 30, 1992

STATE:

SS:

COUNTY OF:

On this 1st day of APRIL, 1992, before me personally appeared John Ryan known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same

Andrea M. Serwit
MY COMMISSION EXPIRES
NOVEMBER 30th 1992