



N.A.S.D. AWARD

Arbitration

NATIONAL ASSOCIATION OF SECURITIES DEALERS

National Association of  
Securities Dealers, Inc.  
NASD Financial Center  
33 Whitehall Street  
New York, N.Y. 10004  
FAX (212) 858-4389

In the Matter of the Arbitration Between

Name of Claimant

Janice H. Hodory

91-02750

Name of Respondent

The Ohio Company  
Tom Carns

REPRESENTATION

For Claimant: Janice H. Hodory.

For Respondents, The Ohio Company and Tom Carns: James A. Francis, Esq. of  
The Ohio Company.

CASE INFORMATION

Statement of Claim filed: August 29, 1991.

Claimant's Submission Agreement signed on: August 22, 1991.

Joint Statement of Answer filed by Respondents, The Ohio Company and Tom  
Carns on: January 8, 1992.

Respondent, The Ohio Company's Submission Agreement signed on: January 7,  
1992.

HEARING INFORMATION

Hearing Date/Sessions: June 23, 1992 - One Session.

Hearing Location: AAA, Cincinnati, Ohio.

CASE SUMMARY

Claimant, Janice H. Hodory ("Claimant") alleged that Respondent, Tom Carns, ("Carns") had previously sold her three income securities, all of which had high ratings. Claimant alleged that she indicated to The Ohio Company that her primary objectives were appreciation safety and income safety.

Claimant alleged that Carns subsequently sold her Brunner Co. L.P. III ("Brunner") without first providing her a prospectus. Claimant alleged that Carns later provided her with "Stanger's Offering Terms Ranking" which rated Brunner AAA+. Claimant alleged that she was misled by the Ohio Company and that they were negligent in not questioning the reliability and validity of the Terms Ranking. Claimant alleged that none of the risks connected with the investment were ever discussed with her. Claimant alleged that the sale of Brunner was made by telephone and that she had never met Carns.

Respondents, The Ohio Company and Tom Carns, maintained that at the time Claimant opened an account at The Ohio Company, she was an experienced investor. Respondents maintained that the Brunner investment was a conservative real estate investment designed to yield 10% tax deferred income. Respondents maintained that Claimant has received in excess of 7% on this investment. Respondents maintained that a prospectus was provided to Claimant and that the investment was also explained to her husband, another experienced investor. Respondents maintained that the Stanger rating of AAA+ indicated the low risk involved in this investment. Respondents maintained that the investment was suitable for Claimant's account and that the investment was properly sold to her.

RELIEF REQUESTED

Claimant requested damages in the amount of \$25,100.00, costs of this action plus punitive damages in an unspecified amount.

Respondents requested that the claim be dismissed in its entirety, the costs of defending the action and attorney's fees.

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 original remains on file with the NASD.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing and post hearing submissions (if any), the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Pursuant to the by-laws of the NASD, the arbitrator determined that Tom Carns was required to submit to this arbitration, notwithstanding his failure to submit an executed Submission Agreement. Therefore, Tom Carns is bound by this panel's rulings and determinations.
2. The Claimant's claim is hereby dismissed in its entirety.
3. The parties shall bear their respective costs of this action, including attorney's fees.
4. All other claims and counterclaims are hereby dismissed in their entirety.

FORUM FEES

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

1. Non-refundable filing fee of \$100 is hereby assessed against the Claimant. Claimant is entitled to offset this amount with her previously paid filing fee of \$100.
2. Claimant and Respondents are hereby each assessed one half of the forum fees of \$300. (1 session X \$300 = \$300) Therefore, Claimant is assessed the amount of \$150 and Respondents are assessed the amount of \$150.
3. Claimant is entitled to offset this amount with her previously paid hearing session deposit of \$300. Respondents are directed to reimburse to the Claimant the balance of \$150.

Concurring Arbitrators' Signatures  
Andrew M. Temin

Public Chairperson

Andrew M. Temin

Date of Decision July 14, 1992