

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Ida, Catherine and Elena Siciliano

91-02997

Name of Respondent(s)

Wise Planning Corporation
Walter Norton

REPRESENTATION

For Claimant Ida Siciliano: Stanley Yaker, Esq.

For Claimants Catherine and Elena Siciliano: Walter D'Ull, Esq.

For Respondent Wise Planning Corporation: Harold I. Geringer, Esq. of the law firm of Geringer & Dolan

For Respondent Walter Norton: Daniel Druz, Esq. of the law firm of Caron & Koffler

CASE INFORMATION

Statement of Claim filed: September 21, 1991.

Claimants' Submission Agreement signed on: September 20, 1991.

Statement of Answer filed by Respondent, Walter Norton on February 11, 1993.

Statement of Answer filed by Respondent Wise Planning Corporation on January 28, 1993.

Respondent, Walter Norton's Submission Agreement signed on March 1, 1993.

Respondent, Wise Planning Corporation's Submission Agreement signed on January 21, 1993.

HEARING INFORMATION

Hearing Dates/Sessions: December 7, 1993 / Two Sessions
 December 8, 1993 / Two Sessions
 January 27, 1994 / One Session

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

CASE SUMMARY

Claimants alleged that Respondent Wise Planning Corporation (hereafter "Wise"), through its representative, Walter Norton (hereafter "Norton"), recommended that Claimants invest in both Damson Oil & Gas Income Fund Limited Partnerships and Sunshine Futures Fund. Claimants alleged that they advised Norton that their investment objectives were primarily security and modest growth. Claimant further alleged that the investments recommended for them by Norton and Wise were described by Norton as being safer than government bonds and were suitable and consistent with Claimants' investment objectives. Claimants alleged also that the dissolution of the Damson Oil & Gas Income Fund Limited Partnership was not in accordance with laws governing the operation of corporations and partnerships regarding dissolution.

Respondent Wise answered that the Statement of Claim is vague and fails to state a cause of action upon which relief may be granted. Further, Respondent Wise answered that Claimants are sophisticated investors who were well informed of the nature and risk of the transactions. Respondent Wise further answered that it never had, nor does it have, any interest or participation in either investment other than effectuating purchases for Wise's customers; nor did Wise have any involvement or participation in the management decisions of Damson Oil & Gas Income Fund regarding dissolution. Respondent Wise, as affirmative defenses, answered that the claim as set forth is time barred pursuant to several authorities, including the NASD Code Of Arbitration, Section 15, the CPLR of the State of New York, Section 213, and the 1991 Supreme Court decision in Lampf, Pleva, Lipkind, Prupis & Pettigro v. Gilbertson. Respondent Wise further answered as an affirmative defense that Section 20.(a) of the Securities Exchange Act of 1934 eliminates the potential liability of Wise as a "controlling person".

Respondent Norton answered that he is in his early eighties and in failing health. Respondent Norton further answered that he concurs and adopts all factual denials and affirmative defenses filed on behalf of Respondent Wise. Respondent Norton answered that the dispute arose too long ago to be brought now, that he never represented to Claimants that any of their investments were absolutely safe or that they were safer than government bonds, and that he never participated in any of the management of the investments. As affirmative defenses, Respondent Norton answered that Claimants fail to state a claim upon which relief may be granted, that Claimants authorized, consented to, or acquiesced in the execution of each transaction and are, therefore, equitably estopped from bringing the claim, that Claimants have waived any and all claims by continuing to pursue the investment strategy and risks correlated with the investments, that Claimants have ratified the transactions by failing to timely object to them, that Claimants have been barred from any recovery for failure to exercise the degree of diligence required in handling and supervising the account, that Claimants knew the risks involved in the investments and voluntarily assumed that risk, that Claimants failed to timely notify Respondents of the alleged acts or omissions and are therefore barred from recovering under the doctrines of ratification, estoppel, waiver, and laches, and, finally, that Claimants' claims are barred by the applicable statute of limitations.

RELIEF REQUESTED

Claimants requested the money invested in Damson Oil & Gas Income Fund Limited Partnership and Sunshine Futures Fund, totaling \$147,851.00, together with interest thereon, as well as any other relief the panel might consider proper.

Respondent Wise requested that Claimants' demands be denied in the entirety and that Respondent Wise be awarded the costs and disbursements of this proceeding.

Respondent Norton requested that Claimants' demands be denied in its entirety and that the costs of the proceeding be assessed against the Claimants.

OTHER ISSUES CONSIDERED & DECIDED

Respondent Wise made a motion to dismiss pursuant to NASD Code of Arbitration, Section 15, as well as various statutes of limitations. The motion was preliminary denied by the Director of Arbitration.

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. The Statement of Claim is denied in its entirety.
2. Each party is responsible for their respective attorney's fees.
3. Claimants shall jointly & severally be liable for 1/2 of the forum fees.
4. Respondents shall jointly & severally be liable for 1/2 of the forum fees.

FORUM FEES

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

Filing fee: \$ 200.00

5 sessions X \$750 = \$3750.00. **TOTAL: \$3,950.00**

Claimants are hereby jointly and severally liable and shall pay to the NASD, Inc. forum fees in the amount of \$1,975.00 to be offset by the \$950.00 deposit already paid to the NASD. Total due: 1,025.00

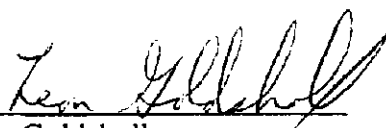
Respondent Wise is hereby liable and shall pay to the NASD, Inc. forum fees in the amount of \$1,975.00.

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

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Concurring Arbitrators' Signatures:

Public/Industry



Leon Goldsholl

NASD Date of Decision: March 4, 1994

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Concurring Arbitrator's Signature
Name

Public/~~Industry~~

Romeo J. Barros

Romeo J. Barros, Esq.


Chairman

NASD Date of Decision: March 4, 1994

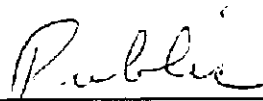
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Concurring Arbitrator's Signature
Name

Public/Industry



Joseph S. Mascia



NASD Date of Decision: March 4, 1994