

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between :

Robert D. Stanwood :

Claimant :

vs. :

Lincoln Investment Planning, Inc. :
Edward S. Frost, Sr. :

Respondents :

CASE #91-03272
AWARD

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on October 17, 1991, Claimant, Robert D. Stanwood, who appeared Pro Se, alleged that on May 16, 1991 Respondent Lincoln Investment Planning, Inc. failed to follow his instructions to transfer his IRA accounts to the new custodian Janney Montgomery Scott, Inc. in a timely manner. Claimant, by and through Harvey H. Minter, registered representative with PMES, Inc. further alleged they filled out the proper forms for the transfer and instructed Respondent Lincoln Investment Planning, Inc. to transfer Claimant's two IRA accounts to the new custodian. Claimant contended that Respondent Lincoln Investment Planning, Inc. had transferred one account and failed to notify him that there was a problem with the other account. Claimant further contended that he was later advised that the problem was that they would not honor a copy of the transfer request form, at which time Claimant sent another original transfer request form to Respondent Lincoln Investment Planning, Inc., who sent it to Claimant's old registered representative, who in turn, misidentified the form and filed it in his client file. Claimant asserted that when the transfer was again delayed he was advised of Respondent's, Lincoln Investment Planning, Inc., error and they informed him that they would expedite the transfer, which was finalized on August 27, 1991. Claimant further asserted that his account statements showed that the balance substantially declined in value from the date the transfer should have taken place and the date it was finally transferred. Claimant further alleged that Respondent Lincoln Investment Planning, Inc. should reimburse him for the loss he incurred due to their delay in transferring the account and that Respondent, Edward S. Frost, Sr., as President is equally liable for Claimant's losses.

Respondent, Lincoln Investment Planning, Inc. by and through its Compliance Officer, Rosemarie Way, maintained that Claimant Robert D. Stanwood's accounts were IRA's with Boulevard Bank as Custodian, not Respondent, Lincoln Investment Planning, Inc. and that Claimant received confirmations of all transactions directly from the company where the funds were invested. Respondent, Lincoln Investment Planning, Inc. further maintained that industry procedures regarding direct transfers of the IRA funds provide that the new custodian send the old custodian the liquidation request signed by the client along with a letter of acceptance signed by the new custodian and that separate original signed transfer requests are needed for each fund group and/or custodian. Respondent, Lincoln Investment Planning, Inc. contended that Claimant, Robert D. Stanwood failed to follow the appropriate transfer procedures in this situation, as only one original transfer request was submitted which had no fund name or account numbers listed. Respondent, Lincoln Investment Planning, Inc. further contended that they were not the custodian nor did they have liquidation powers over Claimant's account and that as a courtesy they forwarded one of Claimant's transfer request to the proper party. Respondent Lincoln Investment Planning, Inc. asserted that as per the May 16, 1990 letter from Harvey H. Minter, Claimant's new registered representative, indicated he was not aware of the proper procedures regarding transfers. Respondent Lincoln Investment Planning, Inc. further asserted that Claimant and Mr. Minter did not follow proper procedures in the execution of this transaction and that any losses which Claimant may have incurred are due to their incorrectly processing of paperwork and their delivery of delayed paperwork to the incorrect party. Respondent Lincoln Investment Planning, Inc. argued that they should not have been a party to this transaction and it is beyond their scope of responsibility, therefore, they filed a Motion to Dismiss.

Claimant, Robert D. Stanwood by and through Harvey H. Minter replied to the Motion to Dismiss by further alleging that they were led to believe that Respondent, Lincoln Investment Planning, Inc. was the custodian and that they have the responsibility to handle the paperwork they receive, at the least, communicate any problems to the customer.

Respondent, Edward S. Frost, Sr., who appeared Pro Se, maintained that he had no personal involvement with the Claimant and adopts the Statement of Answer of Respondent, Lincoln Investment Planning, Inc. along with the Motion to Dismiss.

RELIEF REQUESTED

Claimant, Robert D. Stanwood requested \$4,830.97 in actual damages plus reimbursement of the NASD filing fee and other costs.

Respondents, Lincoln Investment Planning, Inc. and Edward S. Frost, Sr. requested the claim be dismissed.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Gordon W. Hall, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on January 14, 1991, by the Respondent, Lincoln Investment Planning, Inc. on November 13, 1991 and by the Respondent, Edward S. Frost, Sr. on November 15, 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 Claimant Robert D. Stanwood against Respondents, Lincoln Investment Planning, Inc. and Edward S. Frost, Sr. are dismissed.
2. The parties shall bear their respective costs.
3. The \$125.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant, Robert D. Stanwood shall be retained by the NASD, Inc.

AFFIRMATION

I, GORDON W. HALL, ESQ., 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.



Signature of Arbitrator

DATE OF DECISION: May 18, 1992