

Arbitration

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

National Association of  
Securities Dealers, Inc.  
One East Broward Boulevard  
Suite 1000  
Ft. Lauderdale, Florida 33301  
(305) 522-7391

In the Matter of the Arbitration Between )

Name of Claimant(s) )

David and Shirley Arlen )

Name of Respondent(s) )

Halpert, Oberst and Company )  
Samuel Tuchman )

Case No. 91-03318

REPRESENTATION

Claimants, David and Shirley Arlen ("the Arlens"): pro se.

For Respondent, Halpert, Oberst and Company ("Halpert"): Mari-Anne Pissarri,  
Esq. of Pickard and Djinis.

Respondent, Samuel Tuchman ("Tuchman"): pro se.

CASE INFORMATION

Statement of Claim filed: October 18, 1991.

Claimants' Submission Agreement signed on: October 18, 1991.

Respondent, Halpert's, Statement of Answer filed: December 10, 1991.

Respondent, Halpert's, Submission Agreement signed by Alan P. Halpert on  
behalf of the firm on December 18, 1991.

Respondent, Samuel Tuchman's, Statement of Answer filed: December 26, 1991.

Respondent, Tuchman's, Submission Agreement signed on January 22, 1992.

HEARING INFORMATION

Hearing Date/Sessions: March 23, 1992 - Two (2) Sessions

Hearing Location: Fort Lauderdale, Florida

CASE SUMMARY

Claimants, alleged that Respondent, Tuchman, a former Sr. V.P. at Respondent,  
Halpert, duped him into purchasing, in April of 1988, Zero Coupon Bonds-

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Bally Manufacturing Company-by misrepresenting their value and rating as "AAA" when in fact, Claimants contended, they were rated as B-2 & Ba3 by Moody's Corporate Bond Rating. Claimants alleged that they purchased the Bonds at a price of \$35,476.50 and thereafter were forced to sell the bonds for \$32,500.00 when Bally defaulted, causing them to incur a loss of \$2,976.50. Claimants alleged that Respondents' actions caused them mental anguish, psychological depression, anxiety, stress and aggravation of a spinal disc illness for which Claimants have claimed punitive damages.

Respondent, Tuchman, denied all allegations of wrongdoing and categorically denied that he ever told Claimant that the Bally Bonds had a "AAA" rating. Tuchman maintained that the Bally Bonds have not defaulted to date and that any losses that Claimants incurred were due to the fact that they chose to sell the bonds at the wrong time despite Tuchman's recommendation to Claimants to sell the Bonds in early 1989. Respondent, Tuchman, further denied liability for punitive damages and denied responsibility for Claimants' poor health.

Respondent, Halpert, denied all allegations of wrongdoing and maintained that at all times Halpert dealt with Claimants in a fair and appropriate manner. Halpert denied that Claimants total investment was lost in 1991 since Claimants could sell the Bally Bonds right now at a profit. Respondent, Halpert, further contended that the Bally Bonds have not yet matured, thus, by definition, they are not in default and that in fact there currently is an active market for the Bally Bonds. With regard to Claimants' claim for punitive damages, Halpert maintained that the arbitration agreement between the parties does not provide for an award of punitive damages and that the Arbitrators lack jurisdiction over Claimants' demand for punitive damages.

Respondent, Halpert, further denied that it is responsible for Claimants' medical problems.

#### RELIEF REQUESTED

Claimants requested an Award of compensatory damages for actual losses of \$2,976.50, plus punitive damages of \$47,999.50, for a total of \$49,999.50.

Respondent, Halpert, requested dismissal of the Claim.

Respondent, Tuchman, requested dismissal of the claim, plus costs and fees and unspecified punitive damages.

#### 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 originals remain on file with the NASD.

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AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Claimants' claim for compensatory damages is denied;
2. Claimants' claim for punitive damages is denied.
3. All other claims are denied;
4. Respondents are found not liable and, therefore, all Claims against them are hereby dismissed.
5. Each party shall bear its own costs;

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the NASD shall retain the \$120.00 non-refundable deposit previously deposited by claimants and additionally Claimants are assessed forum fees as follows:

Two hearing sessions x \$400.00 - = \$800.00

Claimants are therefore assessed forum fees in the amount of \$800.00; however, the NASD shall offset this fee with the \$400.00 hearing session deposit previously paid by Claimants, therefore, Claimants shall pay forum fees in the amount of \$400.00.

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

ARBITRATION PANEL

Concurring Arbitrators' Signatures

/s/  
Arthur J. Leibell, Esq.

Public/Chairman

/s/  
Victor Pachter

Public/Panelist

/s/  
Terrence W. Grant

Industry/Panelist

Date of Decision: May 7, 1992