

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Louis Martel
Barbara Martel

NASD Arbitration
No. 91-03706

Name of Respondents

Private Portfolios, Inc.
Fritz Brauner

REPRESENTATION

For Claimants: Paul M. Gordon, Esq. - Oakland, California

For Respondents: Patrick Baldwin, Esq. - Menlo Park, California

CASE INFORMATION

Statement of Claim filed: November 25, 1991

Claimants' Submission Agreement signed on: November 7, 1991

Joint Statement of Answer filed by Respondents on: January 30, 1992

Respondents' Submission Agreements signed on: February 7, 1992

HEARING INFORMATION

Hearing Dates/Sessions:	August 3, 1992 -	Two Sessions
	August 4, 1992 -	Two Sessions
	August 5, 1992 -	Two Sessions
	October 6, 1992 -	Two Sessions
	October 7, 1992 -	Two Sessions
	October 8, 1992 -	Two Sessions
	October 9, 1992 -	Two Sessions
	November 23, 1992 -	Two Sessions
	November 24, 1992 -	Two Sessions
	November 25, 1992 -	Two Sessions
	November 30, 1992 -	Two Sessions
	<u>December 1, 1992 -</u>	<u>Two Sessions</u>
	Total Sessions:	Twenty-Four

Hearing Location: San Francisco, California

CASE SUMMARY

Claimants, Louis and Barbara Martel (Martel) alleged that Respondent, Fritz Brauner (Brauner), while employed by Respondent Private Portfolios, Inc. (PPI), induced Martel into investing in six limited partnerships which Brauner knew or should have known were unsuitable in light of Martel's investment objectives, financial circumstances, age and needs. Martel also alleged that Brauner breached his fiduciary duty to Claimants by making false claims, failing to investigate, and failing to inform Martel of the condition of the investments. Martel claimed against PPI for failure to supervise Brauner.

Respondents alleged that at the time the investments were made by Martel, the investments were suitable for Claimants and consistent with their stated economic and investment objectives and that Martel had knowledge and experience in financial and business matters and was capable of evaluating the merits and risks of the investments and that Martel received detailed financial statements regarding the investments made.

RELIEF REQUESTED

Claimants requested compensatory damages in a sum not less than \$80,000.00, interest, punitive damages, attorneys' fees and costs.

Respondents requested dismissal of the claim in its entirety, attorneys' fees and costs.

OTHER ISSUES CONSIDERED & DECIDED

A Motion for Summary Judgment relating to the application of various Statutes of Limitations and Section 15 of the NASD Code of Arbitration Procedure was heard by the panel at the beginning of the hearing. After hearing the arguments and reviewing the submissions relating to said motion, the motion was taken under submission.

After deliberations by the panel on said Motion, the Motion was denied.

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.

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. Respondents, Fritz Brauner and Private Portfolios, Inc., are jointly and severally liable and shall pay to Claimants, Louis and Barbara Martel, the sum of Twenty Nine Thousand, Seven Hundred Ninety Nine Dollars and No Cents (\$29,799.00) together with interest thereon in the sum of Thirteen Thousand, Twelve Dollars and No Cents (\$13,012.00).
2. Claimants claim for punitive damages is denied.
3. No rescission is ordered.

4. The parties shall each bear their respective costs and fees, including attorneys' fee and expert witness fees.
5. The Respondents shall reimburse Claimants the sum of \$650.00, representing the initial filing and hearing session deposit fees.

FORUM FEES

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

1. Respondents, Private Portfolios, Inc. and Fritz Branner, are jointly and severally assessed the sum of \$11,500.00 representing forum fees for 24 sessions at \$500.00 each (\$12,000.00) less credit for a hearing session deposit of \$500.00 to be reimbursed to Claimants.

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

ARBITRATORS

Public/Industry
Public Chairperson
Public Panelist
Industry Panelist

3

James M. Knowles
James Knowles

Date of Decision: Dec. 28, 1992

Served 1/7/93