

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between :

Edwin J. and Patricia Buehler :

Claimants :

CASE #91-03868

AWARD

vs. :

Keith H. Dunton :

Respondent :
-----CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on December 6, 1991, Claimants Edwin J. and Patricia Buehler who appeared Pro Se, alleged that December 6, 1988 Respondent Keith Dunton, a registered representative with Offerman & Co. solicited and recommended the purchase of Southmark Corporation 10-7/8% Senior Notes due November 1, 1989 by misrepresenting its financial status, as well as its future value and potential risk of loss. Claimants further alleged that this recommendation was inappropriate given their investment objectives, to generate income while preserving principle and inappropriate considering their investment history. Claimants contended that Respondent made misleading statements about the investment, in addition to withholding relevant facts and informed Claimants that Southmark was a sound investment in that the bonds had property assets to back them. Claimants further contended that on January 26, 1989 they contacted Respondent with their concerns about an article in the Wall Street Journal that suggested their Southmark investment was in financial trouble, at which time, Respondent recommended they hold their investment claiming their bonds had the lowest risk for loss of principle, even through bankruptcy. Claimants asserted that on July 14, 1989 Southmark filed for bankruptcy and on August 29, 1990 Claimants received \$812.92 cash, 38.875 shares of Southmark preferred stock, 283 shares of Southmark common stock, and a Southmark 12% note due August 10, 1992 with a face value of \$828.00, as settlement from the bankruptcy proceeding. Claimants further asserted that at the recommendation of Respondent they held their Southmark investment and received far less than the original principle value, thus sustaining losses to their account.

Respondent, Keith H. Dunton who appeared Pro Se, maintained that in August 1988 Claimants, Edwin J. and Patricia Buehler opened an account with Offerman & Co., at which time, they established that their investment objective was current income

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with a primary interest in fixed-income securities that provided high yields. Respondent maintained that on December 6, 1988 he recommended to Claimants the purchase of \$7,337.52 in 3,000 face value of Southmark, Inc. 10.875% notes due November 1, 1989 because Claimants had requested a fixed income, high-yielding investment with relatively short maturity. Respondent contended that this recommendation and purchase was appropriate given Claimants investment objectives and investment history. Respondent further contended that he fully discussed and disclosed all relevant facts about the Southmark investment prior to the purchase. Respondent asserted that after reading the Wall Street Journal article and discussing Southmark's situation with other investment professionals, he recommended Claimants sell their bonds or at least sell half of them, at which time, Claimants elected to hold their Southmark bonds. Respondent further asserted that Claimants made all of their investment decisions and had at least two months after the publication of the Wall Street Journal article to liquidate their position yet they decided to hold the bonds, therefore, Claimants were willing to accept the publicized risks and are liable for their own losses.

RELIEF REQUESTED

Claimants, Edwin J. and Patricia Buehler requested \$6,061.00 in actual damages plus interest in the amount of \$1,551.00.

Respondent, Keith Dunton requested the claim be denied.

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Pursuant to Section 13 of the National Association of SEcurities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Richard M. Lavers, Esq. was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on December 3, 1991 and by the Respondent on January 17, 1992.

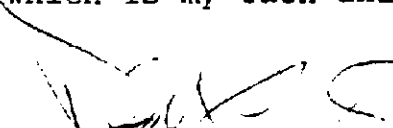
And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

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1. Respondent, Keith Dunton is liable and shall pay to the Claimants, Edwin J. and Patricia Buehler the sum of \$1,251.13 in damages.
2. The Claimants' request for interest is denied.
3. The parties shall bear their respective costs.
4. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants Edwin J. and Patricia Buehler shall be retained by the NASD, Inc. Respondent, Keith Dunton is liable and shall pay to the Claimants, Edwin J. and Patricia Buehler the sum of \$150.00 as reimbursement.

AFFIRMATION

I, RICHARD M. LAVERS, 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:

6-24-92

DATED BY NASD, INC., JUL 15 1992