

PUBLIC

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

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In the Matter of the Arbitration Between :  
: Robert and Mildred Evans, JTEN :  
: Claimants :  
: CASE #91-03949  
vs. : AWARD  
: J.W. Charles Securities, Inc. :  
Sheila Whitefield :  
: Respondents :  
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CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on December 13, 1991, Claimants, Robert and Mildred Evans, who appeared Pro Se, alleged that on July 16, 1987 Respondent, Sheila Whitefield, an investment executive with Respondent, J.W. Charles Securities, Inc. solicited them to purchase 500 shares of Tucker Holding Co., Inc. at \$8.00 per share by misrepresenting the company's financial status and future value of the stock along with its potential risk of loss. Claimant further alleged that Respondent, Sheila Whitefield failed to consider their investment objectives for safe, income earning investments when recommending this purchase. Claimants contended that Respondent, Sheila Whitefield continued to advise Claimants to hold the stock even when the price was rapidly declining, at which time, Respondent, Sheila Whitefield continued to inform them that the company was a good investment, therefore, the price would come back. Claimants further contended that on May 23, 1991 when they tried to sell the Tucker Holding Co., Inc. stock, they were informed that there was no market for the stock and later learned that Tucker Holding Co., Inc. was bankrupt, thus, the security was worthless. Claimants asserted that Respondents, Sheila Whitefield and J.W. Charles Securities, Inc. recommendation was unsuitable given their investment objectives and caused losses to their account, therefore, they should be liable.

Respondent, Sheila Whitefield, who appeared Pro Se, maintained that on May 5, 1987 Claimants opened an account with Respondent, J.W. Charles Securities, Inc. and informed Respondent, Sheila Whitefield that their investment objectives were for "speculation" with long term growth and all the investments Respondent, Sheila Whitefield recommended for Claimants were income with some growth.

Respondent, Sheila Whitefield further maintained she notified Claimants about Tucker Holding Co., Inc. because Respondent, J.W. Charles Securities, Inc. presented this new issue to its brokers as a solid, trusted banking concern with great growth potential as well as a possible takeover candidate. Respondent contended that after Claimants' purchase, she recommended they hold as she had been advised that Respondent, J.W. Charles Securities, Inc. was keeping the stock as a recommended holding and discouraged selling the stock as they did not want to take in any more stock since they were the only market maker. Respondent further contended that on May 23, 1990 she was employed with a new firm and some time later spoke at length to Claimants regarding Isramco, a stock which they owned, at which time, Claimants casually inquired about Tucker and Respondent informed them there was no market for it. Respondent asserted that Claimants tended to prefer to purchase stocks that were more speculative and Respondent informed them she would not recommend such purchases and the decision to purchase was Claimants.

Respondent, J.W. Charles Securities, Inc. by and through their in-house counsel, Charles E. Scarlett, Esq. maintained that on or about May 5, 1987 Claimants, Robert and Mildred Evans opened an account through their Account Executive, Respondent, Sheila Whitefield, at which time, Claimants indicated that they wished to invest for the purpose of growth and some degree of speculation. Respondent, J.W. Charles Securities, Inc. further maintained that on or about July 16, 1987, Respondent, Sheila Whitefield suggested and Claimants agreed to purchase 500 shares of Tucker Holding Company, a bank holding company with significant growth prospects which Respondent, J.W. Charles Securities, Inc. had underwritten at \$8.00 per share. Respondent J.W. Charles Securities, Inc. contended that Claimants' investment history was to purchase highly speculative investments in order to accomplish large gains, accordingly, Respondent, J.W. Charles Securities, Inc. should not be responsible for the losses which Claimants have asserted. Respondent further contended that Claimants took delivery of the Tucker stock on or about August 7, 1987 and ultimately closed their account with Respondent on or about August, 1988, therefore, Respondent had no control over Claimants' investments subsequent to that date and should, at the very least, not be liable for losses which resulted after the account was closed.

RELIEF REQUESTED

Claimants, Robert and Mildred Evans requested \$4,000.00 in actual damages plus Punitive damages.

Respondent, J.W. Charles Securities, Inc. requested the claim be denied.

Respondent, Sheila Whitefield requested the claim be denied.

AWARD


Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Louise T. Jeroslow, 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 5, 1991, by the Respondent, J.W. Charles Securities, Inc. on January 22, 1992 and by the Respondent, Sheila Whitefield on February 7, 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:

1. The claims of Claimants, Robert and Mildred Evans against Respondents, J.W. Charles Securities, Inc. and Sheila Whitefield are dismissed.
2. The Claimants requests for Punitive damages is denied.
3. The parties shall bear their respective costs.
4. The \$50.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants, Robert and Mildred Evans shall be retained by the NASD, Inc. Respondents, J.W. Charles Securities, Inc. and Sheila Whitefield are jointly and severally liable and shall pay to the Claimants, the sum of \$25.00 as partial reimbursement.

AFFIRMATION

I, LOUISE T. JEROSLOW, 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.

  
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Signature of Arbitrator

DATE OF DECISION: July 07, 1992