

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Jack & Bernice Dimmer

Case No. 92-00360

Name of Respondent(s)

**Adler Financial Management, Inc.
Jackson L. Adler**

REPRESENTATION

Claimants, Jack and Bernice Dimmer ("the Dimmers"): Pro Se.

For Respondents, Adler Financial Management, Inc. ("Adler Financial") and Jackson L. Adler ("Adler"): Anthony S. Paetro, of the Law Offices of Anthony S. Paetro, Esq.

CASE INFORMATION

Statement of Claim filed: January 31, 1992. Amendment to Statement of Claim filed: June 1, 1992. Second Amendment to the original Claim filed: October 2, 1992. Claimants' Submission Agreement signed: February 19, 1992.

Respondents, Adler Financial and Adler's, Joint Statement of Answer and Third-Party Statement of Claim and Motion to Dismiss filed: April 23, 1992. Respondents' Submission Agreement signed: March 23, 1992 by Jackson Adler, individually and on behalf of Adler Financial Management.

HEARING INFORMATION

On July 14, 1993 and July 15, 1993, in Fort Lauderdale, Florida, hearings lasting four (4) sessions were conducted.

CASE SUMMARY

Claimants alleged that: Respondents, Adler Financial and Adler, recommended investments which were unsuitable in light of Claimants' investment objective of

safety and security; engaged in misrepresentations and omissions; generated high commissions; misrepresented potential returns; and failed to advise of tax consequences and penalties for withdrawal. More specifically, Claimants alleged that Adler recommended and purchased the following investments: annuity issued by Continental Insurance Company; National Lease Income Fund limited partnership; Eckerd Drug Company bonds; Trump Taj Mahal bonds; Oxford Tax-Exempt Trust 8s limited partnership; Balcour; and, JMB. Claimants further alleged that Adler bought and sold numerous other securities which were unsuitable for the Claimants' conservative needs.

Respondents denied all allegations of wrongdoing and alleged that Claimants were knowledgeable and experienced investors. Respondents further alleged that: Claimants knew the specific tax consequences of deferred annuities; were fully aware of the nature of limited partnerships; and, had knowledge of the inherent risks of a "junk" bond.

Respondents, Adler Financial and Adler, filed a third party claim for indemnification against Merrill Lynch, and Integrated Resources Equity Corp. which was subsequently withdrawn.

RELIED REQUESTED

Claimants requested damages in the amount of \$86,682 plus punitive damages.

Respondents requested that the Statement of Claim be dismissed and that the fees and expenses incurred be assessed against Claimants.

OTHER ISSUES CONSIDERED & DECIDED

1. Respondents filed a Motion to Dismiss pursuant to Section 15 of the NASD Code of Arbitration Procedure and the Claimants filed a Response thereto. The Director granted the motion as to the following two investments only: JMB Properties XI and Oxford Tax Exempt Fund.
2. At the hearing, Respondents re-addressed their Motion to Dismiss, the Panel denied the Motion.
3. 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 arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Upon review of the evidence, the Statement of Claim is hereby dismissed on the merits, the Panel finding no evidence of wrongdoing on behalf of Respondents Adler and Adler Financial.

OTHER COSTS

The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding including attorney's fees.

FORUM FEES

1. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount of \$2,000 (four sessions x \$500 per session).
2. Claimants are hereby assessed \$2,000 for which the NASD shall retain the \$800 previously deposited in partial satisfaction thereof leaving a balance due of \$1,200 payable to the National Association of Securities Dealers, Inc.
3. The NASD shall retain the non-refundable filing fee of \$150 paid by the Claimants.

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

Concurring Arbitrators' Signatures

/s/
Lewis J. Levey, Esq.

Public

/s/
Richard M. Kowalske

Industry

/s/
Burt R. Rose

Public

Date of Decision: August 5, 1993