

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Hedwig K. Samelko

92-00689

Name of Respondents

Alex Brown & Sons, Incorporated
Michael McCarthy

REPRESENTATION

Claimant Hedwig K. Samelko ("Claimant") represented herself.

Respondents Alex Brown & Sons, Incorporated ("Alex Brown") and Michael McCarthy ("McCarthy") were represented by Robert E. Patterson, Assistant General Counsel at Alex Brown.

CASE INFORMATION

Statement of Claim filed on: February 24, 1992.

Claimant's Submission Agreement signed on: February 19, 1992.

Claimant filed a reply to Respondents Answer on: May 15, 1992.

Joint Statement of Answer filed by Respondents on: May 14, 1992.

Respondent Alex Brown's Submission Agreement signed on: April 30, 1992.

Respondent McCarthy's Submission Agreement signed on: April 27, 1992.

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HEARING INFORMATION

Hearing Date/Session(s): October 14, 1993, 1 session

Hearing Location: OMNI Inner Harbor Hotel, Baltimore, Maryland.

CASE SUMMARY

Claimant alleged that McCarthy induced her to invest in Colonial Government Securities Plus Trust Fund ("Colonial Group of Mutual Funds"). Claimant alleged that the Colonial Group of Mutual Funds were not suitable for her as they did not meet Claimant's stated investment objectives. Claimant alleged that McCarthy misrepresented the soundness of investing in Colonial Group of Mutual Funds and that he failed to keep Claimant apprised of the status of her mutual funds. Claimant alleged that Respondents were more concerned with their commissions than Claimant's wellbeing. Claimant further alleged that she directed McCarthy to place approximately an additional \$10,000 in Colonial Group of Mutual Funds but that he failed to timely follow her instructions.

Respondents categorically denied all allegations of wrongdoing asserted by the Claimant and specifically state that the Colonial Group of Mutual Funds met Claimant's investment objective of high yield and income reinvestment. Respondents maintained that Claimant has not lost any money but rather has profited from the Colonial Group of Mutual Funds. Respondents made a motion to dismiss Claimant's claim as Claimant has suffered no harm. Moreover, Respondents maintained that Claimant's claim is barred by the relevant statute of limitations, as well as by the doctrines of waiver, estoppel and ratification. Respondents further maintained that they promptly executed all of Claimant's instructions. *LED*

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$24,322.00.

Respondents requested that Claimant's claim be dismissed in its entirety and that Respondents be awarded costs and fees, including reasonable attorney's fees, incurred in defending this action.

OTHER ISSUES CONSIDERED & DECIDED

That the Presiding Arbitrator determined to hold his ruling on the Respondents' Motion to Dismiss in abeyance until the conclusion of the hearing.

AWARD

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

1. Claimant's claim is denied in its entirety.
2. The parties shall each bear their own respective costs including attorney's fees.

FORUM FEES

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

1 session x 300 = \$300

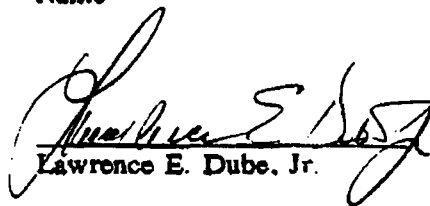
The Presiding Arbitrator has determined that Claimant's hearing session deposit of \$300 shall be retained by the NASD.

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Concurring Arbitrator's Signature

Name

Public/Industry


Lawrence E. Dube, Jr.


Public Arbitrator

NASD Date of Decision: October 14, 1993