

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Sarah L. Frisbie

NASD Arbitration
No.92-00837

Name of Respondent(s)

G.W. Story & Associates, Inc.
Adam W. Mizinski, III

REPRESENTATION

For Claimant: Scot D. Bernstein, Esq., Sacramento, California, and Joseph L. Staats, Esq., Sacramento, California

For Respondent: Stephen F. Boutin, Esq., and Mona E. Opdyke, Esq., Boutin, Lassner, Gibson & Delehant, Sacramento, California

CASE INFORMATION

Statement of Claim filed: March 10, 1992

Claimant's Submission Agreement signed: May 8, 1992

Joint Statement of Answer filed: March 25, 1992

Respondent's Submission Agreement signed:

G.W. Story & Associates:	June 9, 1992
Adam W. Mizinski, III:	March 27, 1992

HEARING INFORMATION

Pre-hearing telephone conference dates / sessions:

October 26, 1992	-	1 session
February 19, 1993	-	1 session
April 14, 1993	-	1 session

Hearing dates / sessions:

February 23, 1993	-	2 sessions
February 24, 1993	-	2 sessions
March 17, 1993	-	2 sessions
March 18, 1993	-	2 sessions
June 1, 1993	-	3 sessions

Hearing Location: San Francisco, California

CASE SUMMARY

Claimant alleged breach of fiduciary duty and negligence arising out of Respondents' recommendation and sale to her of various limited partnership interests in her IRA and personal accounts. Claimant alleged the limited partnership investments were not suitable for her stated investment objectives, financial situation and station in life, and further that the risks of the investments and the commissions paid were not disclosed.

Respondents denied the allegations of wrong-doing, and asserted that the investments were suitable for Claimant, that the decline in the investments' value was the result of market forces and the effects of the Tax Reform Act of 1986, and that all claims are barred by Section 15 of the Code of Arbitration Procedure as well as applicable statutes of limitations.

RELIEF REQUESTED

Claimant requested damages of greater than \$80,000.00, plus interest, punitive and exemplary damages of \$200,000.00, costs of arbitration and attorney's fees.

Respondents requested dismissal of all claims.

OTHER ISSUES CONSIDERED & DECIDED

This case was initially filed on September 18, 1991, in the Sacramento County Superior Court, Case No. 522891. The matter was removed to arbitration by stipulation of the parties.

On the first hearing day, February 23, 1993, Respondents moved for dismissal of the case pursuant to Section 15 of the Code of Arbitration Procedure. The panel denied the motion.

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 are jointly and severally liable for and shall pay to Claimant the sum of \$110,160.00 inclusive of interest.
2. The claims for punitive and exemplary damages are dismissed.
3. Upon satisfaction of the monetary award, Claimant is to give over to Respondents all her right, title and interest in the following limited partnerships:
 - (a) Cal American Income Properties VII
 - (b) CCPII
 - (c) McCombs Properties V - personal and IRA accounts
 - (d) McCombs Properties VII
 - (e) Centennial Development Fund III
 - (f) Transcontinental Realty Investors (aka CCIOT) - two purchases
 - (g) Centennial Development Fund V
 - (h) PS Partners V
 - (i) CCIP - IRA account
 - (j) CCIP 2 - IRA account

4. The parties shall each bear their respective costs, including attorney's fees.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the parties are to split all forum fees.

Pre-hearing conferences - 3 sessions @ \$300/session	\$ 900.00
<u>Evidentiary hearing - 11 sessions @ \$750/session</u>	<u>\$8,250.00</u>
Total Fees	\$9,150.00

Claimant's one-half share	\$4,575.00
<u>Credit for deposit</u>	<u>\$ 750.00</u>
Balance due	<u>\$3,825.00</u>

Respondents' one-half share assessed jointly and severally	<u>\$4,575.00</u>
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Fees are payable to the National Association of Securities Dealers, Inc.

ARBITRATORS

<u>Name</u>	<u>Public/Industry</u>
Allan Blau	Public Chairperson
A. Bruce McKenzie	Public Panelist
Terrence W. Dorsey	Industry Panelist

Concurring Arbitrators' Signatures



Date Served: 06/29/93