

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Samuel Kaufman

92-01294

Name of Respondent

Steven J. Mileo

REPRESENTATION

For Claimant, Samuel Kaufman ("Kaufman"): Michael R. Casey, Esq. of Casey and Molchan.

For Respondent, Steven J. Mileo ("Mileo"): Alfred A. LaSorte, Esq.

CASE INFORMATION

Statement of Claim filed on April 14, 1992. Claimant's Submission Agreement signed on June 2, 1992.

Statement of Answer filed by Respondent, Mileo on August 31, 1992. Respondent's Submission Agreement signed on September 22, 1992.

HEARING INFORMATION

On April 30, 1993, in Fort Lauderdale, Florida a hearing lasting two (2) sessions was conducted.

CASE SUMMARY

Claimant alleged that he is an unsophisticated investor, with limited assets, retired, disabled and a cancer patient and that Respondent was fully aware of the foregoing when he recommended that he purchase Southeast Bank Co. bonds. Claimant further alleged that Respondent knew that the Southeast bonds carried a speculative rating and were therefore an inappropriate investment for a retired person seeking to conserve capital. Claimant stated that despite assurances from Respondent, the price of the Southeast bonds fell steadily from the date of purchase causing him substantial financial losses.

Respondent, Mileo, denied all allegations of wrongdoing contained in the Statement of Claim and maintained that the Southeast Bank Co. bonds were not an unsuitable investment for Claimant who presented himself to Respondent as having an income of approximately \$30,000.00 per year and net worth of approximately \$150,000.00 and that at no time prior to the purchase of the investment in question did the Claimant advise Respondent that he was disabled or a cancer patient. Respondent further stated that Claimant called Respondent and specifically enquired about the investment in question and that Respondent fully apprised Claimant of all aspects of the investment prior to purchase. Respondent further contended that at the time of purchase he was a salaried employee and therefore received absolutely no compensation from the transaction at issue and accordingly had no motive to misrepresent anything to Claimant.

RELIEF REQUESTED

Claimant requested an award of damages equal to the consideration paid for the investment at issue plus interest thereon at the legal rate of 12% less the amount of any income received from and the proceeds of the sale of the notes, plus costs.

Respondent requested dismissal of the claim as well as an Award of attorneys' fees and costs against Claimant.

OTHER ISSUES CONSIDERED & DECIDED

None.

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. Respondent, Mileo, is found not liable and, therefore, all claims against him are hereby dismissed.
2. Respondent's request for attorneys' fees is hereby denied.

OTHER COSTS

The parties shall each bear their own costs and expenses incurred in connection with this proceeding.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the arbitrator has assessed forum fees of \$400.00 (two (2) hearing sessions X \$200.00).

1. Claimant is hereby assessed forum fees of \$75.00 for which the NASD shall retain the \$75.00 previously deposited in full satisfaction thereof.
2. Respondent is assessed forum fees of \$325.00 payable to the NASD, Inc.
3. The NASD shall retain the non-refundable filing fee of \$75.00 paid by the Claimant.

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

ARBITRATOR

Concurring Arbitrator's Signature

Name

Public/Industry



Steven D. Elias, Esq.

Sole Public Arbitrator

Date of Decision: 6-7-93