

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Michael H. Schaffer

Case No. 92-02412

Name of Respondent(s)

Ronald R. Friedel

REPRESENTATION

Claimant, Michael Schaffer ("Schaffer"): was pro se.

For Respondent: Ronald R. Friedel ("Friedel"): Morgan Bentley, Esq. of the Law Offices of Morgan Bentley, Esq.

CASE INFORMATION

Statement of Claim filed: July 21, 1992 and amended November 18, 1992.
Claimant's Submission Agreement signed: July 17, 1992.

Respondent's Statement of Answer and Counterclaim filed: October 2, 1992.
Respondent's Submission Agreement signed: October 14, 1992 by Friedel.

HEARING INFORMATION

On September 21, 1993, in Fort Lauderdale, Florida, a hearing lasting one session was conducted.

CASE SUMMARY

Claimant alleged that: Respondent was liable for misleading Claimant into believing that he would not have any risk of tax liability if he invested in a certain real estate limited partnership. Claimant alleged that the accounting firm hired by Friedel's employer used an illegal accounting method in computing the real estate depreciation schedule and, upon investigation by the IRS, the investment was disallowed thereby causing Claimant damages in the form of back taxes.

Claimant alleged that Friedel was liable for: breach of fiduciary duty; negligence; fraud; and, recommending an unsuitable investment.

Respondent denied all allegations of wrongdoing and alleged that: Claimant received a prospectus and was advised of all the risks involved; Friedel made no representations inconsistent with the prospectus; Claimant was suitable for the investment; Friedel made no misrepresentations and was not fraudulent in his conduct; and, Schaffer was a knowledgeable and sophisticated investor.

Respondent alleged the affirmative defenses of: statute of limitations; estoppel; and, failure to state a cause of action.

Respondent filed a Counterclaim and alleged that Claimant should be held liable for filing a frivolous Claim.

RELIEF REQUESTED

Claimant requested damages in the amount of \$60,840, plus interest of \$73,000, and punitive damages of \$60,840.

Respondent requested damages in excess of \$5,000, plus dismissal of the Claim, and that the forum fees be assessed against Claimant.

OTHER ISSUES CONSIDERED & DECIDED

1. Respondent, Friedel withdrew, with prejudice, his counterclaim at the hearing.
2. The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award 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. Respondent, Friedel, is found not liable and, therefore, all claims against him are hereby dismissed.
2. Claimant's request for punitive damages is denied.

OTHER COSTS

The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding.

FORUM FEES

1. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount of \$750 (one session x \$750 per session).
2. Claimant is hereby assessed \$750 for which the NASD shall retain the \$750 previously deposited in full satisfaction thereof.
3. The NASD shall retain the non-refundable filing fee of \$200 paid by Claimant and \$500 paid by Respondent.
4. The NASD shall refund the session deposit of \$300 paid by Respondent.

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

Concurring Arbitrators' Signatures

/s/
Gary M. Landau, Esq. Public

/s/
Norman L. Weiss Public

/s/

Robert P. Root Industry

Date of Decision: _____