

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Marvin Perlman and Josephine Perlman,
individually and as trustees of
the Perlman Family Trust

NASD Arbitration
No. 92-02821

Name of Respondent(s)

Yaeger Securities, Inc.
Norma Yaeger
John Barrett

REPRESENTATION

For Claimants: Harold J. Tomin, Esq., Fenigstein & Kaufman, Los Angeles, California

For Respondents: H Thomas Fehn, Esq., Fields, Fehn & Sherwin, Los Angeles, California

CASE INFORMATION

Statement of Claim filed: August 20, 1992

Amended Statement of Claim filed: January 18, 1993

Claimants' Submission Agreements signed as follows:

Marvin Perlman and Josephine Perlman, individually: August 12, 1992

Marvin Perlman and Josephine Perlman, trustees: August 29, 1992

Joint Statement of Answer filed by Respondents: October 19, 1992

Respondents' Submission Agreements signed as follows:

Yaeger Securities, Inc.: September 10, 1992

Northa Yaeger: September 10, 1992

John Barrett: October 14, 1992

HEARING INFORMATION

Pre-Hearing Conference Date/Sessions: May 6, 1993 (one session)

Hearing Dates/Sessions: May 18, 1993 (two sessions)
 May 19, 1993 (two sessions)
 May 20, 1993 (two sessions)
 May 21, 1993 (two sessions)

Hearing Location: Los Angeles, California

CASE SUMMARY

Regarding investments in real estate limited partnerships, Claimants alleged breach of fiduciary duties, fraud, conspiracy to commit fraud, negligent misrepresentation, and negligence by Respondents. Claimants further alleged violation of applicable rules of the National Association of Securities Dealers, Inc. (NASD), including, without limitation, Section 2, Article III of the Rules of Fair Practice, violation of Section 10(b) of the Securities Exchange Act of 1934, and Rule 10b-5 thereunder and failure to supervise. Claimants also alleged that Respondents, and each of them, acted intentionally, maliciously, wrongfully, unlawfully, and with willful indifference and reckless disregard of the rights of the Claimants.

Respondents denied generally and specifically each and every allegation of the Statement of Claim and alleged that in executing the partnership subscription documents, Claimants specifically represented that they had a net worth in excess of one million dollars, that they were aware of and understood that the partnerships had no financial or operating history, and that an investment in the partnerships was considered to involve a high degree of risk. Respondents further alleged that they believe that Claimants were experienced, sophisticated and wealthy investors who understood exactly what they were doing and the risks

attached to it.

RELIEF REQUESTED

Claimants requested:

1. Payment of their actual damages, plus interest and costs in an amount in excess of \$300,000.00;
2. Damages for emotional distress suffered by the Claimants in an amount according to proof;
3. Punitive damages in an amount in excess of \$300,000.00;
4. Reasonable attorney's fees and costs; and
5. Such other relief as is allowed by law and as the panel deems just and equitable.

Respondents requested that the Statement of Claim be dismissed in its entirety and that they be awarded their costs and reasonable attorney's fees.

OTHER ISSUES CONSIDERED & DECIDED

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 Yaeger Securities, Inc., Norma Yaeger and John Barrett are jointly and severally liable for and shall pay to Claimants, the sum of \$249,300.00 plus interest at the rate of 10% per annum from the date of the Award until the date of payment of the Award.

2. Claimants shall at the written request of Yaeger Securities, Inc., forthwith quitclaim to Yaeger Securities, Inc., all of their right, title and interest in and to each of the following properties:

- a. Orlando 72, Ltd.;
- b. Orlando 311, Ltd.;
- c. P144 Limited Partnership;
- d. Vineyard Crest Associates, Ltd.; and
- e. Woodcreek Oak Associates, Ltd.

3. At the request of Yaeger Securities, Inc., Claimants shall promptly execute and deliver to Yaeger Securities, Inc., such instruments and other documents as will be reasonably necessary to carry out the quitclaim assignments referred to in paragraph two above.

4. Claimants' claims for punitive damages and emotional distress are denied.

5. 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 following forum fees are assessed: The NASD shall refund the \$1,000.00 hearing session deposit previously deposited by the Claimants. Forum fees are assessed against:

Respondents Yaeger Securities, Inc., Norma Yaeger and John Barrett, jointly and severally, in the amount of \$8,300.00, calculated as follows: One pre-hearing session times \$300.00/session plus eight hearing sessions times \$1,000.00/session.

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

ARBITRATORS

<u>Name</u>	<u>Public/Industry</u>
Bayard F. Berman, Esq.	Public Arbitrator
Ronald L. Cameron	Public Arbitrator
Richard C. Ramos	Industry Arbitrator

Concurring Arbitrators' Signatures

Bayard F. Berman

Bayard F. Berman, Esq.

Ronald L. Cameron

Richard C. Ramos

Date of Decision: July 3 1993

Date Served: 07/15/93