

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Marny Glasser and Harold Glasser

92-03053

Name of Respondents

Kidder, Peabody & Co., Incorporated
Sam Luby, III

REPRESENTATION

For Claimants, Marny and Harold Glasser ("the Glassers"): Russell L. Forkey, Esq.

For Respondents, Kidder Peabody & Co., Incorporated ("Kidder") and Sam Luby, III ("Luby"): Thomas A. Dubbs, Esq. of Kidder.

CASE INFORMATION

Statement of Claim filed: 9/11/92.

Claimant's Submission Agreement signed on: 9/8/92.

A joint Statement of Answer filed by Respondents, Kidder and Luby on: 11/24/92.

Respondent, Kidder's, Submission Agreement and Corporate Acknowledgment signed by Thomas A. Dubbs, Esq. on behalf of the firm on: 11/23/92.

Respondent, Luby's, Submission Agreement signed on: 10/14/92.

HEARING INFORMATION

Hearing Dates/Sessions: 9/28/93-Two (2) Sessions.
10/13/93-One (1) Session.

Hearing Location: Fort Lauderdale, Florida.

CASE SUMMARY

Claimants alleged that they were solicited by Respondent, Luby, to invest in limited partnerships; that Claimants investment objectives were income and safety of principal; that based upon Luby's recommendation, Claimants did make investments in limited partnerships-Polaris Aircraft Income Fund II and Polaris Aircraft Income Fund III ("Polaris"); that these investments were not suitable in light of Claimants' investment objectives; and that Respondents' actions constituted fraud, deceit, negligence, breach of fiduciary duty, breach of contract and negligent supervision.

Respondents denied all allegations of wrongdoing and alleged that Claimants indicated to Respondents that their net worth was at least \$1,000,000.00; that Claimants studied and reviewed the prospectuses; Claimants informed Respondents that given the risk involved, that the Limited Partnerships at issue were good investments; that the investments were suitable given Claimants' investment objectives and financial position.

RELIEF REQUESTED

Claimants requested recession or damages in the amount of \$70,475.00, interest, costs and such other relief as the panel deems appropriate.

Respondents requested that the Statement of Claim be dismissed with prejudice with costs and forum fees to be awarded to Kidder.

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 and post hearing submissions (if any), the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents, Kidder and Luby, are found not liable and, therefore, all claims against them are hereby dismissed.

OTHER COSTS

The parties shall each bear all costs and expenses incurred by them in connection with this proceeding including attorney's fees.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the panel has assessed forum fees in the amount of \$1,500.00 (Three (3) hearing sessions X \$500.00).

1. Claimants are hereby assessed forum fees of \$1,500.00 for which the NASD shall retain the \$500.00 previously deposited in partial satisfaction thereof leaving a balance due to the NASD of \$1,000.00 payable to the NASD, Inc.
2. The NASD shall retain the non-refundable filing fee of \$150.00 paid by the Claimants.

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

ARBITRATION PANEL

Concurring Arbitrators' Signatures

/s/

Robert Kasky, Esq.

Public/Chairman

/s/

James R. South

Industry/Panelist

/s/

Richard S. Zaifert, Esq.

Public/Panelist

Date of Decision: December 8, 1993