

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Chao Hong Fu, Individually and as
Attorney-In-Fact for Mei-Huey Fu
and Jen-Kou Fu

NASD Arbitration
No. 92-03235

Name of Respondent(s)

Marc Fink

REPRESENTATION

For Claimants: Raymond Gaitan, Esq., Greenbaum And Ferentz, Newport Beach,
California

For Respondent: Mark Fink, Securities America, Inc., Bel Air, California

CASE INFORMATION

Statement of Claim filed: September 22, 1992

Claimants' Submission Agreement signed: September 28, 1992

Statement of Answer filed by Respondent: November 30, 1992

Respondent's Submission Agreement signed: December 22, 1992

HEARING INFORMATION

Pre-Hearing Conference: None

Hearing Date(s)/Sessions: May 11, 1993 (two sessions)

Hearing Location: Los Angeles, California

CASE SUMMARY

Regarding the purchase and sale of bonds issued by Eastern Airlines, Bally Grand, Griffin Resorts and TWA during the years 1988 through 1990, Claimants alleged fraud and misrepresentations, breaches of contract, breaches of fiduciary duties owed to Claimants and/or general negligence in recommending and executing unauthorized transactions, including margin transactions, which were unsuitable for Claimants through a course of wrongful conduct including false, deceptive and misleading information provided to Claimants and/or omitted to be disclosed and upon which Claimants relied. Claimants further alleged failure to supervise and violations of National Association of Securities Dealers, Inc. (NASD) and New York Stock Exchange, Inc. rules and regulations.

Respondent Marc Fink denied Claimants' allegations and alleged that Chao Hong Fu is a sophisticated investor, that Mr. Fu made all the transaction decisions himself and consistently invests in high-risk, speculative situations.

RELIEF REQUESTED

Claimants requested:

1. Out-of-pocket losses in a sum of at least \$250,000.00;
2. Interest at the highest legal rate;
3. Punitive damages in the amount of \$250,000.00;
4. Costs of suit;
5. Attorney's fees; and
6. Other and further relief the Arbitration Panel deems just and proper.

OTHER ISSUES CONSIDERED & DECIDED

Prior to the evidentiary hearing, Claimants dismissed Kennedy, Cabot & Co., Inc. as a party in this matter.

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, the evidence presented at the hearing and post hearing submissions, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. All claims by Claimants, including the claim for punitive damages, are dismissed.
2. The parties shall each bear their respective costs including attorney's fees.

OTHER COSTS

None.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following forum fees are assessed: The NASD shall retain the \$750.00 hearing session deposit previously deposited by the Claimants. Forum fees are assessed against:


Claimants in the amount of \$750.00, calculated as follows: Two hearing sessions times \$750.00/session, minus the \$750.00 hearing session deposit retained by the NASD.

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

ARBITRATORS

<u>Name</u>	<u>Public/Industry</u>
Arthur H. Bernstein, Esq.	Public Arbitrator
Robert G. Sether	Public Arbitrator
Robert Taylor	Industry Arbitrator

Concurring Arbitrators' Signatures



Arthur H. Bernstein, Esq.

Robert G. Sether

Robert Taylor

Date of Decision: July 8, 1993

Date Served: 07/14/93