

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

PUBLIC

Lisa Valvano

92-03357

Name of Respondent(s)

First Albany Corporation
Robert Elser

REPRESENTATION

Claimant Lisa Valvano appeared pro se.

For Respondent James Reilly, Esq. of Herzog, Engstrom & Koplovitz, PC,
Albany, New York.

CASE INFORMATION

Statement of Claim filed: October 5, 1992.

Claimant's Submission Agreement signed on: October 1, 1992.

Joint Statement of Answer filed by Respondents, First Albany Corp. and Robert
Elser on: March 7, 1993.

Respondent, First Albany Corporation's Submission Agreement signed on: March
5, 1993.

Respondent, Robert Elser's Submission Agreement signed on: March 3, 1993.

HEARING INFORMATION

Hearing Dates/Sessions:	October 13, 1993	2 Sessions
	October 29, 1993	2 Sessions
	November 2, 1993	2 Sessions

Hearing Location: NASD offices located in New York, New York.

CASE SUMMARY

Claimant alleged that in February, 1984 Claimant's parents attended a seminar given by Respondent Elser of Respondent First Albany, and in May, 1984 Respondent Elser came to Claimant's home whereby, she decided to turn her money over to him for investment purposes. Claimant alleged that Respondent Elser was explicitly told that none of the money was to be placed at undue risk because Claimant is blind and paralyzed and her money must support her for the rest of her life. Claimant contended that at first Respondent Elser invested her money in tax mutual bonds and funds; however, he later insisted that her money should be invested in stock options and he continually pressured Claimant to purchase options, whereby, Claimant trusted Respondent Elser and as a result Claimant lost approximately \$200,000. Claimant alleged the investments were unsuitable, and Respondent Elser gave Claimant confusing conclusions of the account's profitability, which caused her to suffer losses in her account.

Respondents maintained that almost all communications with Claimant were either in the presence of her parents, or, when by telephone, through one of them as an intermediary. Respondents maintained that Claimant's assets consisted of mainly certificate of deposits and U.S. Treasuries and she expressed to Respondent Elser her unhappiness with the fact that taxes consumed a significant portion of her income and that the investments offered little or no opportunity for growth. Respondents maintained that Claimant purchased municipal bonds to limit the impact of taxation on her income and purchased mutual funds with an eye toward growth and finally upon the recommendation of Respondent Elser, Claimant purchased an Executive Life 5x5 annuity for \$200,000 which now has a value of over \$500,000. Respondents alleged that because of certain events occurring in Claimant's family, she wanted to increase the opportunity for profit whereby, Respondent Elser explained the workings and risks of options. Respondents maintained that the investment strategy was suitable and Claimant approved and signed all the necessary documents.

RELIEF REQUESTED

Claimant requested \$100,000 in losses on securities traded, \$54,000 in interest, \$45,000 commissions and \$200,000 in punitive damages.

Respondents requested all claims be dismissed.

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 First Albany and Robert Elser be and hereby are liable, jointly and severally, and shall pay Claimant Lisa Valvano the sum of \$22,817.19 inclusive of interest.
2. Claimants claim for punitive damages be and hereby is dismissed.
3. Each party shall bear their own costs.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed:

6 sessions x \$750.00 = \$4,500.00 less \$750.00 hearing session
deposit = \$3,750.00 net due.

Forum Fees Assessed Against:

Respondent First Albany & Robert Elser be and hereby are liable, jointly and severally, and shall pay the NASD the sum of \$2,250 to represent forum fees.

Claimant be and hereby is liable and shall pay the NASD the sum of \$1,500 to represent forum fees.

The NASD shall retain the \$200.00 filing fee and \$750.00 hearing session deposit previously deposited by Claimant.

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ARBITRATORS' SIGNATURE

Jerome Goodgal
Public Arbitrator

Marilyn J. Salzman
Marilyn J. Salzman Esq.
Public Arbitrator

Stuart N. Kingoff, Esq.
Industry Arbitrator

Date of Decision: December 1, 1993

STATE OF:

SS:

COUNTY OF:

On this day of , 1993, before me personally appeared **Jerome Goodgal** known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same.

STATE OF:

SS:

COUNTY OF:

On this day of , 1993, before me personally appeared **Stuart N. Kingoff, Esq.** known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same.

STATE OF: *New York*

SS:

COUNTY OF: *Nassau*

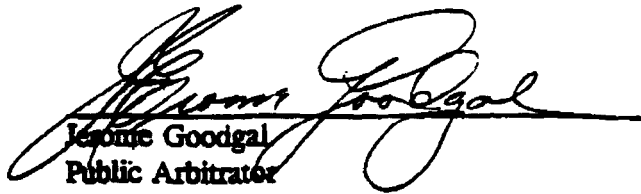
On this *29th* day of *November*, 1993, before me personally appeared **Marilyn J. Salzman, Esq.** known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same.

Stanley P. Salzman

STANLEY P. SALZMAN
NOTARY PUBLIC, State of New York
No. 8746425
Qualified in Nassau County
Commission Expires August 31, 1994

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ARBITRATORS' SIGNATURE



Jerome Goodgal
Public Arbitrator

Marilyn J. Salzman, Esq.
Public Arbitrator

Stuart N. Kingoff, Esq.
Industry Arbitrator

Date of Decision: December 1, 1993

STATE OF: NY

SS:

COUNTY OF: NY

On this 29 day of November, 1993, before me personally appeared Jerome Goodgal known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same.

Mark O. Glitt

MARK O. GLITT
Notary Public, State of New York
No. 4085183
Qualified in Queens County
Comm. Expires April 20, 1997

STATE OF:

SS:

COUNTY OF:

On this day of , 1993, before me personally appeared Stuart N. Kingoff, Esq. known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same.

STATE OF:

SS:

COUNTY OF:

On this day of , 1993, before me personally appeared Marilyn J. Salzman, Esq. known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same.

ARBITRATORS' SIGNATURE

Jerome Goodgal
Public Arbitrator

Marilyn J. Salzman. Esq.
Public Arbitrator

Stuart N. Kingoff

Stuart N. Kingoff. Esq.
Industry Arbitrator

Date of Decision: December 1, 1993

STATE OF:

SS:

COUNTY OF:

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STATE OF: *New York*

SS:

COUNTY OF: *New York*

On this *29* day of *November*, 1993, before me personally appeared Stuart N. Kingoff, Esq. known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same.



MARK C. GLUT
Notary Public, State of New York
No. 4986183
Qualified in Queens County
Commission Expires April 20, 1995 *3*

STATE OF:

SS:

COUNTY OF:

On this day of , 1993, before me personally appeared Marilyn J. Salzman, Esq. known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same.