

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Salvatore and Lilian Sgammato

92-03433

Name of Respondent(s)

Chubb Securities, Inc.

REPRESENTATION

For Claimants: Salvatore and Lilian Sgammato ("Sgammato"): Anthony Zinge, Esq. of Johnson, Blakely, Pope, Bokor, Ruppel & Burns, P.A..

For Respondent: Chubb Securities, Inc. ("Chubb"): Christopher Wells, Esq. of Lane Powell Spears Lubersky.

CASE INFORMATION

Statement of Claim filed: October 8, 1992. Claimants' Submission Agreement signed on: September 29, 1992.

Statement of Answer filed by Respondent, Chubb on: December 29, 1992 and amended on January 11, 1993. Respondent, Chubb's Submission Agreement signed on: December 21, 1992 by Mary Toumpas on behalf of Chubb.

HEARING INFORMATION

On December 2, 3, 4, and 5, 1993 in Tampa, Florida hearings lasting eight sessions were conducted.

NASD Case Number 92-03433

Award

Page - 2 -

CASE SUMMARY

Claimants, alleged that Respondent was liable for: negligence and gross negligence; negligent supervision; breach of fiduciary duty; common law fraud; and, violation of Section 772.102 of the Florida Statutes. Claimants alleged that Respondent recommended that they invest in limited partnerships which were illiquid and risky and which were unsuitable for Claimants in light of their sophistication and investment objectives.

Respondent denied all allegations of wrongdoing and alleged that: based on the financial circumstances and concerns of Claimants, the recommended investments focused on tax shelters for the near term and capital growth potential for a more distant retirement program; Respondent also recommended, and Claimants purchased, annuities and mutual funds to diversify the account; Claimants were sophisticated investors with substantial net worth and income; and, Claimants were advised of and understood the risks involved and the nature of the investments.

Respondent asserted the affirmative defenses of: Statute of limitations; failure to state a claim; ratification; waiver; estoppel; laches; acquiescence; unclean hands; res judicata; collateral estoppel; accord and satisfaction; failure to join indispensable parties; failure to mitigate damages; assumption of risk; failure to exercise due diligence on the part of Claimants; good faith; and, the claim is time barred under Section 15 of the NASD Code of Arbitration Procedure.

RELIEF REQUESTED

Claimants requested: damages in the amount of \$210,270 plus punitive damages, interest, costs, attorney's fees and such other relief as the panel deems appropriate.

Respondent requested: dismissal of the claim plus attorney's fees, and costs.

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 original(s) remain on file with the NASD.

NASD Case Number 92-03433

Award

Page - 3 -

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. Respondent, Chubb is found not liable and, therefore, the claims against it are hereby dismissed.
2. Claimants' request for interest, costs, attorney's fees, and punitive damages is denied.
3. Respondent's request for costs and attorney's fees is denied.

OTHER COSTS

None

FOURM FEES

1. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the panel has assessed forum fees in the amount of \$6,000 (8 sessions x \$750 per session).
2. Claimants are hereby assessed forum fees in the amount of \$3,000. The NASD shall retain the \$750 hearing session deposit and the \$950 payment for the postponement request which was denied in partial satisfaction of such forum fees leaving a balance due to the NASD of \$1,300.
3. Respondent is hereby assessed \$3,000 payable to the National Association of Securities Dealers, Inc.
4. The NASD shall retain the \$200 nonrefundable filing fee previously deposited by Claimants.

NASD Case Number 92-03433

Award

Page - 4 -

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

Concurring Arbitrators' Signatures

Name

Public/Industry

1/5/
Harold M. May

Public

1/5/
Howard J. Adler, Esq.

Public

1/5/
Joseph I. Amonette

Industry

Date of Decision: 1/13/94