

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration BetweenName of Claimant

Harold A. Hoenstine

92-03947

Name of RespondentPenn Square Management Corporation

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on November 20, 1992, Claimant Harold A. Hoenstine who appeared Pro Se, alleged that in October, 1991 he owned approximately 13,455 shares of U.S. Government Securities Portfolio of the William Penn Funds managed by Respondent Penn Square Management Corporation, which was designated as an Individual Retirement Account. Claimant further alleged that he owned a number of IRA investment accounts with various institutions which he wanted to consolidate under the custodianship of a single IRA custodian, namely, Resource Trust Co. ("RTC") who provided self-directed IRA services. Claimant contended that he executed an IRA Transfer letter which was transmitted by RTC to Respondent who was Trustee of Claimant's IRA account, and the letter was designated "re-register" and not "liquidate"; however, Respondent liquidated the account and sent the proceeds to RTC. Claimant further contended that on November 5, 1991 RTC received the proceeds of liquidation and automatically deposited these proceeds in an interest bearing money market account and when the error was discovered in January 1992 RTC, on behalf of Claimant, made numerous telephone and written requests to attempt to rectify the error. Claimant alleged that in the interim RTC returned the funds to Respondent and because of the erroneous liquidation, Claimant lost the opportunity to receive compounded dividends.

Respondent Penn Square Management Corporation by and through its President, James E. Jordan, maintained that Claimant Harold A. Hoenstine had an IRA with the SFT U.S. Government Portfolio, and Mr. Groshan, the CEO of CFT was indicted by the SEC for numerous violations of federal securities law. Respondent further maintained that in 1991 Respondent structured a transaction whereby Respondent acquired, at significant cost to Respondent, certain of the assets of the SFT U.S. Government and other portfolios, thereby removing those portfolios from the management of Mr. Groshan's former company. Respondent contended that this transaction was encouraged and assisted by the SEC in order to benefit the then remaining shareholders of SFT and through this transaction Claimant became shareholder of Respondent's Funds U.S. Government Securities Portfolio. Respondent further contended that because of the nominal fees and ease of establishing a mutual fund IRA it is rare to receive

an IRA transfer seeking re-registration in the name of a new custodian. Respondent asserted that it reasonably interpreted Claimant's Transfer letter and RTC, as author of the letter is liable for any misunderstanding instruction.

RELIEF REQUESTED

Claimant Harold A. Hoenstine requested \$3,889.01 in actual damages plus \$750.00 in Punitive damages.

Respondent Penn Square Management Corporation requested the claim be dismissed.

AWARD


Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Arnold Limsky, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on November 4, 1992 and by the Respondent on March 3, 1993.

And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Respondent Penn Square Management Corporation is liable and shall pay to the Claimant the sum of \$1,445.70 in damages.
2. The Claimant's request for Punitive damage is denied.
3. The parties shall bear their respective costs.
4. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Harold A. Hoenstine shall be retained by the NASD. Respondent Penn Square Management Corporation is liable and shall pay to the Claimant the sum of \$150.00 as reimbursement.

AFFIRMATION

I, Arnold Limsky, do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.



Signature of Arbitrator

Date of Decision: May 24, 1993

STATE OF:

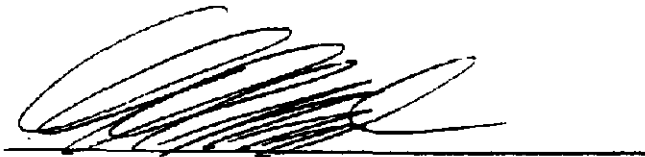
New Jersey

ss:

COUNTY OF:

Morris

On this 17 day of May 19 93, before me personally appeared Arnold Limsky to me known and known before me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.



CHRISTIAN R. WIDMANN
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires Oct. 31, 1994