

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Alicia M. Czorny

92-03994

Name of Respondents

Legg Mason Wood Walker, Inc
Gary J. Koepenick

REPRESENTATION

For Claimant Alicia M. Czorny ("Claimant"): Foster S. B. Friedman, Attorney at Law

For Respondents Legg Mason Wood Walker, Inc. ("Legg Mason") and Gary J. Koepenick ("Koepenick"): Dana N. Pescosolido, Esq. of the law firm of Fairbanks, Gault & Pescosolido.

CASE INFORMATION

Statement of Claim filed: November 23, 1992

Claimant's Amended Statement of Claim filed: April 13, 1993

Claimant's Submission Agreement signed on: October 30, 1992

Joint Statement of Answer filed by Respondent Legg Mason and Respondent Koepenick (collectively referred as "Respondents") on: January 19, 1993

Respondents Joint Amended Statement of Answered filed on: April 22, 1993

Legg Mason's Submission Agreement signed on: January 7, 1993

Koepenick's Submission Agreement signed on: January 11, 1993

HEARING INFORMATION

Hearing Dates/Sessions: September 1, 1993 - two sessions

September 2, 1993 - two sessions

Hearing Location: Holiday Inn, Baltimore, Maryland

CASE SUMMARY

Claimant alleged that Respondents are liable to her for losses on investments in Mid-Atlantic Centers Limited Partnership ("MAC") and Krupp Cash Plus-III ("Krupp"). Claimant alleged that her losses are a result of the negligent misrepresentations and omissions by Koepenick while in the employ of Legg Mason. Claimant alleged that Koepenick made false statements to her and intentionally omitted providing her with material facts to induce Claimant to purchase MAC and Krupp. Claimant alleged that these false statements and omissions occurred while Koepenick was in the employ of Legg Mason.

Respondents categorically denied all allegations of wrongdoing alleged by the Claimant. Respondents maintained that Claimant's claim is barred by all applicable statutes of limitations. Respondents maintained that Claimant's claim is based on "20-20" hindsight and that all investments made by Claimant were suitable. Respondents maintained that all material information on MAC and Krupp was provided to Claimant and that Koepenick disclosed to Claimant all material facts. Respondents flatly deny all allegations of fraud alleged by Claimant.

RELIEF REQUESTED

Claimant requested, upon tender of the MAC investment, compensatory damages in the amount of \$34,600, plus interest since September 1990. Claimant requested, upon the tender of Krupp, compensatory damages in the amount of \$9,946.50. Claimant also requested punitive damages, plus costs and reasonable attorneys' fees.

Respondents requested that Claimant's claim be dismissed in all respects.

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.

The Panel noted that at the hearing, and in closing argument, the Claimant did not contend that the recommendation of Claimant's investment in Krupp was unsuitable, but argued that in light of the Krupp investment,

recommendation of the additional investment in MAC limited partnership was unsuitable.

During the hearing, Respondents moved to strike Claimant's allegations that Respondents engaged in fraud and misrepresentation. The Panel deferred ruling on the motion. In view of the Award, set forth below, the Panel determined it was unnecessary to rule on the motion.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's allegations of fraudulent or negligent misrepresentations by Respondents, or either of them, are not supported by substantial evidence, and are therefore denied.
2. Claimant's allegation that Respondents recommended an unsuitable investment is sustained as to the MAC investment. Claimant's allegation as to the Krupp investments is denied. The Panel determined that Claimant's claim was not barred by applicable statute of limitations.
3. Upon tendering to Legg Mason share certificates and/or other instruments necessary to transfer ownership of the shares held by Claimant in Mid-Atlantic Centers Limited Partnership, Respondents are jointly and severally liable to the Claimant shall pay to the Claimant the sum of \$30,034.
4. Claimant's requests for attorneys fees is denied. The parties shall bear their respective costs and expenses, except as indicated herein.
5. Claimant's claim for punitive damages is denied in its entirety.

FORUM FEES

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

Case No. 92-03994
Czorny Award
Page -4-

4 hearing sessions x \$400 = \$1,600

The Panel has determined that the forum fees incurred in this matter shall be equally borne by the Claimant and the Respondents. Claimant is assessed forum fees in the amount of \$800, however, she is entitled to offset this amount with hearing session fee of \$400 that she previously deposited, so that the amount due from the Claimant as forum fees is \$400.

Respondents are jointly and severally assessed forum fees in the amount of \$800.

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

Concurring Arbitrator's Signature

Name

Public/Industry


Lawrence E. Dube, Jr., Esq.


Public

Date of Decision: Oct. 4, 1993

NASD Date of Decision: October 8, 1993

Case No. 92-03994

Czorny Award

Page -4-

4 hearing sessions x \$400 = \$1,600

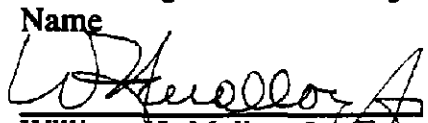
The Panel has determined that the forum fees incurred in this matter shall be equally borne by the Claimant and the Respondents. Claimant is assessed forum fees in the amount of \$800, however, she is entitled to offset this amount with hearing session fee of \$400 that she previously deposited, so that the amount due from the Claimant as forum fees is \$400.

Respondents are jointly and severally assessed forum fees in the amount of \$800.

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

Concurring Arbitrator's Signature

Name


William H. Malloy, Jr., Esq.

Public/Industry

Public

Date of Decision:

October 4, 1993

NASD Date of Decision: October 8, 1993

Case No. 92-03994

Czorny Award

Page -4-

4 hearing sessions x \$400 = \$1,600

The Panel has determined that the forum fees incurred in this matter shall be equally borne by the Claimant and the Respondents. Claimant is assessed forum fees in the amount of \$800, however, she is entitled to offset this amount with hearing session fee of \$400 that she previously deposited, so that the amount due from the Claimant as forum fees is \$400.

Respondents are jointly and severally assessed forum fees in the amount of \$800.

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

Concurring Arbitrator's Signature

Name

Public/Industry


Daniel T. McHugh



Date of Decision: October 8, 1993