

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Charles A. Egerton and Frances W. Egerton

92-04087

Name of Respondent(s)

Ross A. Smith

REPRESENTATION

For Claimants, Charles A. and Frances W. Egerton ("The Edgertons"): Richard W. Groner, Esq. of Snyder, Groner & Schieb, Sarasota, Florida.

For Respondent, Ross Smith ("Smith"): Michael C. Addison, Esq., Tampa, Florida.

CASE INFORMATION

Statement of Claim filed: 12/4/92.

Amended Statement of Claim filed: 12/28/92

Claimant's Submission Agreement signed on: 11/23/92.

Statement of Answer filed by Respondent, Smith on: 4/19/93.

Respondent, Smith, did not execute a submission agreement as required under Sections 12 and 25 of the Code of Arbitration Procedure.

HEARING INFORMATION

Hearing Dates/Sessions: 3/7/94-One (1) session.
 4/6/94-Two (2) sessions.
 4/7/94-Two (2) sessions.

Hearing Location: Tampa, Florida.

CASE SUMMARY

Claimants alleged that they are unsophisticated investors and that Respondent solicited them in 1988 to purchase products and positions that were unsuitable and ill advised for their account, despite their stated investment objectives of safety of principal and liquidity. Claimants alleged that Smith purchased for their account the following: 38 shares of National Lease Income Fund 6, L.P.; 80 shares of National Lease Income Fund 6, L.P. and 100 shares Aircraft Income Partners, L.P. Claimants maintained that in so doing Smith violated his fiduciary duty to them.

Respondent denied all allegations of wrongdoing and maintained that Claimants were fully informed by Smith of the risk and lack of liquidity of their investments and were provided with prospectuses prior to purchase. Respondent further maintained that none of his actions were negligent or irresponsible and that he acted with Claimants' best interest in mind at all times.

RELIEF REQUESTED

Claimants requested damages in the amount of \$100,000.00 together with interest, costs and attorney's fees.

Respondent requested dismissal of the Claim plus attorney's fees and expenses.

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.

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, Smith, is found not liable and, therefore, all claims against him are hereby dismissed.
2. Claimants shall pay Respondent, Smith, Attorney's fees and expenses in the amount of \$7,000.00.

OTHER COSTS

The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding including attorney's fees.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the Panel has assessed Forum Fees in the amount of \$3,750.00 (five (5) hearing sessions X \$750.00).

1. Claimants are hereby assessed forum fees in the amount of \$3,000.00 for which the NASD shall retain the \$450.00 previously deposited in partial satisfaction thereof leaving a balance due to the NASD of \$2,550.00.
2. Respondent is hereby assessed forum fees in the amount of \$750.00 payable to the NASD, Inc.
3. The NASD, Inc. shall retain the non-refundable filing fee of \$200.00 previously paid by Claimants.

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

ARBITRATION PANEL

Concurring Arbitrators' Signatures

_____/s/
Harold M. May

Public/Chairman

_____/s/
Randall T. Stack

Industry/Panelist

_____/s/
Richard I. Funkey

Public/Panelist

Date of Decision: May 23, 1994