

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Lola Pearl

93-00467

Name of Respondents

First Albany Corporation
Maria Saulino
Larry Doyle

REPRESENTATION

For Claimant Lola Pearl ("Pearl"): Ruthann Niosi, Esq.

For Respondent First Albany Corporation ("First Albany"): James M. Reilly, Esq. of Herzog, Engstrom & Koplovitz.

For Respondent Maria Saulino ("Saulino"): Mark J. Astarita, Esq. of the firm Gusrae, Kaplan & Bruno.

For Respondent Larry Doyle ("Doyle"): He appeared pro se.

CASE INFORMATION

Statement of Claim filed: February 4, 1993.

Claimant's Submission Agreement signed on: March 1, 1993.

Statement of Answer filed by Respondent First Albany on: April 29, 1993.

Respondent First Albany's Submission Agreement signed on: April 29, 1993.

Statement of Answer filed by Respondent Saulino on: April 30, 1993.

Respondent Saulino did not execute a Submission Agreement as required pursuant to Section 25 of the Code of Arbitration Procedure.

Statement of Answer filed by Respondent Doyle on: April 15, 1993.

Respondent Doyle's Submission Agreement signed on: April 13, 1993.

HEARING INFORMATION

Pre-Hearing Conference: January 28, 1994 - One Session
Hearing Dates/Sessions: January 19, 1994 - Two Sessions
February 1, 1994 - One Session

Hearing Location: National Association of Securities Dealers, Inc. offices located in New York City, New York.

CASE SUMMARY

Claimant alleged that she was an unemployed, unsophisticated investor with very limited assets and funds, who sought only safe investments for her approximately \$60,000.00 in savings; that Claimant maintained two accounts at Respondent First Albany, an individual account and a joint account with Claimant's son; and that in August, 1991, Claimant transferred her joint account balance into her individual account for a total value of approximately \$56,000.00. Claimant further alleged that Respondent Saulino, a registered representative with Respondent First Albany, was advised by Claimant that Claimant required safety of her funds because within a few months Claimant would be faced with an unexpected \$35,000.00 expense; that Respondent Saulino began aggressively and actively trading Claimant's account on margin in unsuitable securities; and that Respondent Saulino totally disregarded Claimant's instructions regarding suitability and investment objectives in breach of Respondent Saulino's fiduciary duties to Claimant. Claimant also alleged that Claimant was unaware of some of the trades in her account prior to execution and relied upon Respondent Saulino's advice and direction for the remainder of the trades. Claimant alleged that Respondent Doyle, a branch office manager with Respondent First Albany, was responsible for the maintenance and enforcement of procedures to enable the proper supervision of registered representatives to ensure compliance with applicable securities laws.

Respondents denied all allegations of wrongdoing and requested that the Statement of Claim be dismissed in its entirety. Respondents maintained that Claimant was an experienced investor who made numerous investments with Respondent Saulino for many years. Respondents further maintained that all trades done in the account were done at the specific direction of the Claimant and were in accord with her stated investment objectives and goals. Respondents also maintained that the claims alleged in the statement of Claim, insofar as any attempt was made to allege violations of Federal Securities Laws, were barred by the applicable statute of limitations.

RELIEF REQUESTED

Claimant requested the following damages against the Respondent: (1) \$25,000.00

plus interest in compensatory damages; (2) attorneys' fees and costs; and (3) any other relief the panel deems appropriate.

Respondent First Albany requested dismissal of the claim in its entirety and that the costs of this proceeding be assessed against the Claimant.

Respondent Saulino requested an award dismissing the Statement of Claim in all respects as it relates to her; and for such other and further relief as the arbitrators may deem just and proper.

Respondent Doyle requested dismissal of the claim.

OTHER ISSUES CONSIDERED & DECIDED

Claimant advised the panel that all claims against Respondent Doyle were being dismissed with prejudice.

Claimant requested a pre-hearing conference on January 28, 1994, in order to obtain an order compelling production of Respondent First Albany's telephone records to either prove her claim that Respondent Saulino engaged in unauthorized trading or to substantiate Respondents assertions that Respondent Saulino did not engage in unauthorized trading in Claimant's account. Respondents argued that such documentation could not be produced in advance of the next scheduled hearing date, that Claimant had ample opportunity to request such documents in advance of the hearing, that such documentation would not conclusively establish Claimant's allegation that unauthorized trading occurred in Claimant's account because there were several different telephone numbers that Claimant could be reached at, and that Claimant could have been the one to initiate the telephone calls, therefore it would take a considerable amount of time before all parties could obtain telephone documents for all of the possible telephone numbers that Claimant could have received and made telephone calls from. Chairman, Harvey Barrison, denied Claimant's request and advised Claimant that she could reargue her position to the full panel of arbitrators. Claimant renewed the request for the telephone documents of First Albany to the full panel on February 1, 1994 and this request was unanimously denied.

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. All claims against Respondents First Albany and Saulino be and hereby are dismissed with prejudice.
2. Each party shall bear their respective costs including attorneys'

fees.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the arbitrators have determined that the following forum fees are assessed against the Claimant:

1. \$ 100.00 - non-refundable filing fee.
 \$ 300.00 - pre-hearing conference.
 \$1200.00 - 3 hearing sessions at \$400.00 per session.
2. Claimant deposited \$650.00 which shall be applied to the fees assessed.
3. The balance due by Claimant is \$950.00.

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

Concurring Arbitrators' Signatures

Name

Signature

Harvey Barrison, Esq.

Chairperson - Public Arbitrator

Signature

James E. Howard

Industry Arbitrator

Date of Decision: March 11, 1994

Signature

Joseph B. Russell, Esq.

Public Arbitrator

STATE OF

COUNTY OF

On this ____ day of _____, 1994, before me personally appeared _____ known to me to be the individual described in and who executed the foregoing instrument and duly acknowledged to me that he/she executed the same.

STATE OF NY

COUNTY OF NY

On this 9th day of March, 1994, before me personally appeared Joseph R. R. known to me to be the individual described in and who executed the foregoing instrument and duly acknowledged to me that he/she executed the same.

Deborah A. DeJesus
DEBORAH A. DEJESUS
Notary Public, State of New York
No. 02DE5022979
Qualified in New York County
Commission Expires January 24, 1996

STATE OF

COUNTY OF

On this ____ day of _____, 1994, before me personally appeared _____ known to me to be the individual described in and who executed the foregoing instrument and duly acknowledged to me that he/she executed the same.

fees.

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Concurring Arbitrators' Signatures
Name

Harvey Barrison, Esq.
Chairperson - Public Arbitrator

Joseph B. Russell, Esq.
Public Arbitrator



James E. Howard
Industry Arbitrator

Date of Decision: March 11, 1994

STATE OF

COUNTY OF

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STATE OF

COUNTY OF

On this ____ day of _____, 1994, before me personally appeared _____ known to me to be the individual described in and who executed the foregoing instrument and duly acknowledged to me that he/she executed the same.

STATE OF

COUNTY OF

On this 7 day of March, 1994, before me personally appeared James Howard known to me to be the individual described in and who executed the foregoing instrument and duly acknowledged to me that he/she executed the same.

Deborah A. DeJesus

DEBORAH A. DEJESUS
Notary Public, State of New York
No. 02DE6022979
Qualified in New York County
Commission Expires January 24, 1996

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Concurring Arbitrators' Signatures

Name

Harvey Barrison, Esq.

Chairperson - Public Arbitrator

Concurring

Name

Harvey Barrison, Esq.

Chairperson

Joseph B. Russell, Esq.

Public Arbitrator

James E. Howard

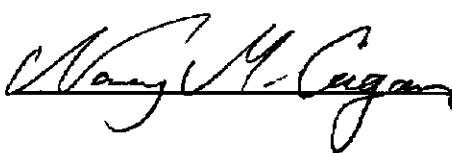
Industry Arbitrator

Date of Decision: March 11, 1994

STATE OF

COUNTY OF

On this 4th day of March, 1994, before me personally appeared Harvey Barrison known to me to be the individual described in and who executed the foregoing instrument and duly acknowledged to me that he/she executed the same.



NANCY M. CAGAN
Notary Public, State of New York
No: 31-4982840
Qualified in New York County
Commission Expires February 24, 1995

STATE OF

COUNTY OF

On this _____ day of _____, 1994, before me personally appeared _____ known to me to be the individual described in and who executed the foregoing instrument and duly acknowledged to me that he/she executed the same.

Harvey Barrison, Esq.
Arbitrator - Public Arbitrator

STATE OF

COUNTY OF

On this _____ day of _____, 1994, before me personally appeared _____ known to me to be the individual described in and who executed the foregoing instrument and duly acknowledged to me that he/she executed the same.
