

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the matter of the Arbitration Between

Name of Claimant

Marilyn M. Schmidt

NASD Arbitration
No.93-00818

Name of Respondents

New England Securities
Ray C. Woolever

REPRESENTATION

For Claimant: David C. Hollinger, Sunland, California

For Respondents: Mitchell A. Karman, Esq., New England Securities, Boston, Massachusetts

CASE INFORMATION

Statement of Claim filed: March 5, 1993

Claimant's Submission Agreement signed: March 25, 1993

Ray Woolever's Statement of Answer filed: April 29, 1993

Joint Statement of Answer filed: June 8, 1993

Respondent's Submission Agreements signed:

New England Securities: None submitted

Ray C. Woolever: June 3, 1993

HEARING INFORMATION

Pre-hearing telephone conference date / sessions:

November 4, 1993 - 1 session

Hearing date / sessions:

November 10, 1993 - 2 sessions

Hearing Location: Los Angeles, California

CASE SUMMARY

Claimant alleged breach of fiduciary duty, failure to disclose, fraud, churning and lack of suitability with respect to her investments in Copley Realty Income Partners One, real estate limited partnership.

Respondents denied the allegations of wrongdoing, and asserted that all pertinent facts were disclosed to Claimant and her late husband prior to investing in Copley One, that the limited partnership has not yet closed and, to date, appears to be profitable and that Claimant has not suffered any losses, that the claims are barred by the applicable statutes of limitations, and that the claims are ineligible for arbitration because the transaction occurred more than six years before the filing of the claims.

RELIEF REQUESTED

Claimant requested compensatory damages of \$20,000, plus interest, treble damages and costs of arbitration.

Respondents requested dismissal of all claims.

OTHER ISSUES CONSIDERED AND DECIDED

Claimant concluded the presentation of her case on November 10, 1993. Prior to reconvening, Respondents moved for a directed verdict based on Claimant's failure to show entitlement to any relief in this matter. The panel then considered the moving papers and claimant's opposition.

AWARD

After considering the evidence and testimony presented by Claimant, as well as the motion for directed verdict and the opposition thereto, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination:

1. Respondents' motion for a directed verdict is GRANTED.
2. The parties shall each bear their respective costs, including attorney's fees.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the NASD shall retain the \$150 non-refundable filing fee paid by Claimant. The \$500 hearing session deposit previously paid by Claimant shall be retained as an assessment of forum fees for one session.

In addition, Respondent New England Securities is assessed \$500 as forum fees for one session.

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

ARBITRATORS

<u>Name</u>	<u>Public / Industry</u>
Michael S. Carona	Public Chairperson
Lou von Dyl	Public Panelist
Rachford Harris	Industry Panelist

Concurring Arbitrators' Signatures

Lou von Dyl

Date of Decision: 3-11-94

Serfed 3/18/94