

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of Arbitration Between

Name of Claimant

Anthony James Simonelli

vs.

Case # 93-00964

Name of Respondents

Invest Financial Corporation
Lisa Maria Booth
Metric Partners Growth Suite

REPRESENTATION

Anthony James Simonelli ("Claimant") was not represented by counsel.

For Respondents, Invest Financial Corporation ("IFC") and Lisa Maria Booth ("Booth"), Eugene B. Harper, Esq., in-house counsel.

CASE INFORMATION

Statement of Claim was filed on March 11, 1993.

Claimant's Submission Agreement was signed on March 5, 1993.

Joint Statement of Answer was filed by IFC and Booth on May 17, 1993.

IFC's Submission Agreement was signed on May 13, 1993.

Booth's Submission Agreement was signed don May 10, 1993.

Metric Partners Growth Suite is a non-member of the NASD and therefore the NASD does not have jurisdiction over it.

HEARING INFORMATION

Hearing Dates/Sessions:

November 2, 1993

- 2 sessions

Hearing Location: National Association of Securities Dealers, Inc.'s offices located at 260 Franklin Street in Boston, Massachusetts.

CASE SUMMARY

Claimant alleges that in early 1986, he met Booth at Century Invest Division at the Century Bank and that he told her that he was interested in an investment vehicle that would preserve his principal investment. Claimant alleges that Booth recommended Nuveen Mass Tax Exempt bonds which she indicated had triple A rating with eight percent (8%) yearly interest.

Claimant states that he purchased 503 shares at \$100.00 per share and received quarterly checks in the amount of \$1,000.00 each. Claimant also alleges that in November, 1988, Booth called him and recommended that he purchase Metric Partners Growth Suite Limited Partnership ("Limited Partnership") which had yearly interest as high as ten percent (10%) and was also triple A rated, and, as a result he transferred from the Nuveen to the Limited Partnership and received a \$1,000.00 every three months for nearly nine months. Claimant further alleges that he then noticed a reduction in the check to \$750.00 in November, 1989, February, 1990 and May, 1990 and the next check was for \$250.00. Claimant alleges that he later learned that the investment was in real estate and the shares were worth 40 cents per share.

Respondents deny liability, deny the allegations of wrongdoing, and assert eight affirmative defenses. Respondents state that Claimant along with Deborah Simonelli opened an account in 1987 and purchased two series of Moseley Tax Exempt Unit Trusts for \$100,000.00 which were a gift from Claimant's father. Respondent also state that Claimant indicated that his investment objectives were balanced between income and growth and a willingness to assume an average risk factor. Respondent further state that Claimant indicated his net worth to be between \$100,000.00 and \$300,000.00 and an annual income of \$30,000.00 to \$39,000.00.

Respondents allege that Claimant then opened another account and purchased \$50,000.00 worth of Nuveen Tax Exempt Unit Trust Merchants Series #215 with a yield of 7.24% payable quarterly. Respondents maintain that these units were not sold or transferred to purchase the Limited Partnership but were pledged as collateral for the purchase of the Limited Partnership.

Respondents also allege that Claimant was provided with sales brochure and prospectus. Respondents further allege that Booth explained all of the feature of the Limited Partnership, including suitability standards for investors and the initial limited guarantee seven percent (7%) case distribution through 1989. Respondents deny that Claimant was advised that the Limited Partnership would pay him ten percent (10%) annually, that it had a triple A rating, that it was just as safe as Nuveen or that the income was exempt from state and federal taxes.

Respondents further state that Claimant filed the same complaint with District 11 of the NASD, and District 11, after an investigation, determined that no action was warranted.

RELIEF REQUESTED

Claimant requests an award of \$50,000.00 in damages.

Respondents request that the Panel dismiss Claimant's request for damages and assess costs against Claimant.

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) It is hereby ordered and adjudged that Respondent IFC within the next thirty (30) days shall either:

- (1) Pay claimant Anthony James Simonelli the amount of **FOUR THOUSAND SIX HUNDRED AND TWENTY-FIVE DOLLARS AND ZERO CENTS (\$4,625.00).**

Or, in the alternative,

- (2) purchase from Claimant all of the Metric Limited Partnership units at the price of \$815.00 per \$1,000.00 (see Exhibit 3).

- 2) Once Respondent IFS has complied with either alternative in this Award, the Statement of Claim will be dismissed with prejudice and Claimant will be barred from filing any further claims for arbitration with the NASD with respect to the matters embraced within this Statement of Claim.

FORUM FEES

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

Non-refundable Filing Fee: \$120.00

Hearing Session Fees: \$400.00 x 2 sessions = \$800.00

Total Due \$920.00.

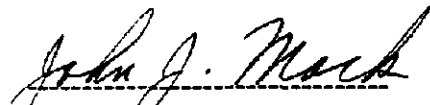
- 1) Claimant is assessed the \$120.00 non-refundable filing fee.
- 2) Claimant is further assess \$400.00 in forum fees.
- 3) Claimant deposited \$520.00 and shall receive a credit in that amount.
- 4) Respondent IFC is assessed \$400.00 in forum fees.

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

ARBITRATION PANEL

Peter M. Saporoff, Esq.	-	Public Chairperson
John J. Mark	-	Public Panelist
Michael B. Fines	-	Industry Panelist

Concurring Arbitrator's Signature


John J. Mark

Date of Decision December 23, 1993

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Michael B. Fines, Esq.

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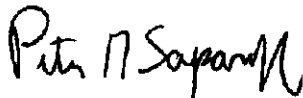
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