

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Cheryl S. Henoch,
Laurie S. Brock

vs.

NASD #93-00994

Name of Respondents

M.L. Stern & Company,
Robert P. Yorba, III

REPRESENTATION

For Claimant: Timothy D. McGonigle, Esq., of Ruben, Crispi & McGonigle of Los Angeles, California.

For Respondents: Michael Holtzman, Esq. of Cambria, California.

CASE INFORMATION

Statement of Claim filed: March 16, 1993

Claimant's Submission Agreement signed: May 3, 1993

Statement of Answer filed by Respondents on: July 19, 1993

Respondents' Submission Agreements signed on: M.L. Stern on June 2, 1993 and Yorba on June 16, 1993

HEARING INFORMATION

Prehearing Conference(s) Date(s)/(Sessions): None

Hearing Date/(Sessions): February 1, 1994 (two sessions)
February 2, 1994 (two sessions)

Hearing Location: Los Angeles, California

CASE SUMMARY

Claimants alleged:

Fraud, misrepresentation, negligence, breach of fiduciary duty and failure to supervise in the sale of IDM limited partnership. Claimants are sisters who had an account at respondent M.L. Stern (MLS) with their father, Edwin Bard, (Bard) and were originally contacted by respondent Robert Yorba (Yorba) and persuaded to transfer tax-exempt municipal bonds for an investment in IDM. Yorba represented the investments as safe and non-speculative, and suitable for retirement funds and elderly people on fixed incomes.

On July 24, 1991 IDM stopped making distributions to investors and filed for Chapter 11 bankruptcy, which Yorba assured claimants was temporary. In the summer of 1992, claimants became aware that the investment was not prudent and the Certificate of Investment is worthless.

Respondents alleged:

Claimants' father, Bard, began purchasing investments from MLS in 1982 and also invested in numerous deeds of trust on real property. Bard therefore had other sources of investments, was not solely interested in conservative or tax-free investments and was familiar with real estate loans. Claimants became more involved in the investments as Bard's health failed.

Full disclosure was made to claimants regarding IDM and the following was discussed: IDM's track record, the structure of the partnership, the fact that it was "no load," the purpose of the money invested and the risk. Claimants decided to sell their tax-free investment and invest in IDM.

RELIEF REQUESTED

Claimant requested:

1. General damages for all amounts lost;
2. Punitive damages;
3. Interest on general damages from date of loss;
4. Costs and reasonable attorneys' fees.

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 M. L. Stern only is liable for and shall pay claimants \$85,700., subject to the following:
 - a. Disbursements received by claimants are to be credited to the amount of the award which is to be adjusted accordingly;
 - b. 10% interest is to be paid to claimants compounded annually from the date of loss to the date of the award, and subject to further interest at the rate of 10% annually, compounded, beginning 30 days after notice of award to respondent until paid;
 - c. Claimants are to transfer all rights they hold in the subject IDM investment to respondent M. L. Stern, with no cost of transfer to be incurred by claimants.
2. All claims against respondent Yorba are dismissed;
3. The claim for punitive damages is dismissed.
4. The parties shall each bear their respective attorney's fees;
5. The parties shall each bear their respective costs.

OTHER COSTS

None.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following forum fees are assessed: The National Association of Securities Dealers, Inc. shall refund the \$500. hearing session deposit previously deposited by the claimant. Forum fees assessed against:

Respondent M. L. Stern for \$2,000.

calculated as follows: four hearing sessions at \$500./hearing session, equals \$ 2,000.

Fees are payable to the National Association of Securities Dealers.

ARBITRATION PANEL

Name

Aaron Fenton
Leo B. Babich
John P. McShane

Public/Industry

Public Arbitrator
Public Arbitrator
Industry Arbitrator

Concurring Arbitrators' Signature



Aaron Fenton

DATE SERVED: 02/28/94

Leo B. Babich

John P. McShane

Date of Decision: