

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the matter of the Arbitration Between

Name of Claimant

Frank and Doris N. Refalo,
Individually and as Trustees of the
Frank and D. N. Refalo Family Trust

NASD Arbitration
No. 93-02292

v.

Name of Respondents

Diversified Securities, Inc.
IDS Financial Services, Inc.
William M. Nufer

REPRESENTATION

For Claimant: Jeffrey Louis Gaffney, Esq., Carlsbad, California

For Respondent IDS Financial Services: Gary R. Irwin, Esq., IDS Financial Services,
Minneapolis, Minnesota

For Respondents Diversified Securities and William Nufer: James Geffner, Esq., Los Angeles,
California

CASE INFORMATION

Statement of Claim filed: June 11, 1993

Claimants' Submission Agreements signed: June 29, 1993

Amendment to Claim filed: February 16, 1994

Statement of Answer filed by IDS Financial Services: September 10, 1993

Joint Statement of Answer filed by Diversified Securities and William Nufer: September 28, 1993

Respondents' Submission Agreements signed:

IDS Financial Services on September 10, 1993

Diversified Securities on September 27, 1993

William Nufer on September 23, 1993

HEARING INFORMATION

Hearing Dates / Sessions: May 24, 1994 - 2 sessions
May 25, 1994 - 2 sessions

Hearing Location: San Diego, California

CASE SUMMARY

Claimants alleged Respondents failed to recommend suitable investment vehicles for Claimants' lump sum retirement funds by recommending the purchase of illiquid, high risk limited partnerships and real estate investment trusts. Claimants further alleged fraudulent and negligent misrepresentation and omission of material facts with respect to the risks of the investments. Claimants also alleged failure to supervise, breach of contract, breach of fiduciary duty, breach of the implied covenant of good faith and fair dealing, and violations of the California Elder Abuse and Dependent Adult Civil Protection Act.

Respondent IDS Financial denied the allegations, and denied liability to Claimants based on its lack of involvement with the sale of the investments to Claimants, and asserted that the claims were barred by the applicable statutes of limitations.

Respondents Diversified Securities and William Nufer denied the allegations and also asserted that the claims were barred by the applicable statutes of limitations. Respondents asserted that complete disclosure of all particulars of the investments was made to Claimants prior to purchase and that a prospectus was provided for each investment.

RELIEF REQUESTED

Claimants requested, as amended, rescission of all their real estate investment trust and limited partnership interests in the approximate amount of \$69,860, plus interest, punitive damages, costs of arbitration and attorney's fees.

Respondents each requested dismissal of all claims, and an award of costs of arbitration.

OTHER ISSUES CONSIDERED AND DECIDED

At the first hearing session, Respondents each moved for dismissal pursuant to applicable statutes of limitations and Section 15 of the NASD Code of Arbitration Procedure. After reading the motion papers and hearing oral arguments, the panel DISMISSED all claims against Respondent IDS Financial. The panel's decision with respect to Respondents Diversified Securities and William Nufer was taken under submission and the evidentiary hearing proceeded.

The remaining 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. Respondents Diversified Securities, Inc., and William Nufer are jointly and severally liable for and shall pay to Claimants the sum of \$36,500 exactly.
2. The claim for punitive damages is denied.
3. 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 previously paid by Claimants, but shall refund the \$500 hearing session fee.

Forum fees are assessed against Diversified Securities and William Nufer, jointly and severally, as follows:

4 sessions @ \$500 / session = \$2000

Fees are payable to the NASD.

ARBITRATORS

Name

Ronald R. Hrusoff
William D. Randolph
Gunnar Thowsen

Public / Industry

Public Arbitrator
Public Arbitrator
Industry Arbitrator

Concurring Arbitrators' Signatures

Ronald R. Hrusoff
Ronald R. Hrusoff

William D. Randolph

Gunnar Thowsen

Served 6/16/94

Date of Decision: _____

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6/14/94
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