

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Dolores G. Leist

93-02585

Name of Respondent(s)

Daniel J. Foley
John W. Irvine

REPRESENTATION

Claimant, Delores Leist ("Leist") appeared pro se.

Respondent, Daniel Foley ("Foley") appeared pro se.

Respondent, John Irvine ("Irvine") appeared pro se.

CASE INFORMATION

Statement of Claim filed: July 1, 1993

Claimant's Submission Agreement signed on August 3, 1993

Claimant's Response to Answer filed on September 18, 1994

Statement of Answer filed by Respondent, Foley on: October 5, 1993

Respondent, Foley's Submission Agreement signed on October 4, 1993

Respondent Irvine did not file and answer or submission agreement although he appeared and testified at the hearing.

HEARING INFORMATION

Hearing Date/Sessions: October 10, 1994 (2 sessions)

Hearing Location: Westin William Penn, 530 William Penn Place, Pittsburgh, PA, 15219

CASE SUMMARY

Claimant alleged that Respondents made investment recommendations and/or investment decisions for her investment portfolio which were unsuitable, that they acted negligently in handling her investments, that they fraudulently misrepresented two real estate limited partnership investments, that they fraudulently misrepresented their investment services to her and that they breached their contractual and other duties and obligations to her as general partner in the two real estate limited partnerships.

Claimant maintained that she was never personally presented with, nor had the opportunity to review disclosures, prospectuses, offering memorandum or other documentation relating to the two limited partnership investments. She claimed that the investments were highly speculative and Respondents took advantage of her status as an unsophisticated investor.

Respondent Irvine defended by stating he never served the Claimant as broker or as investment adviser, that Claimant was never his customer and that he never had anything to do with Claimant's investment decisions. He stated that his only contact with Claimant was as a general partner after both limited partnership investments had been made through Respondent Foley.

Respondent Foley denied Claimant's allegations of intimidation, denied making any misrepresentations of any investments or of his investment services, and stated he had fully discharged his duties and obligations as a general partner. He stated that he was convinced the investments were prudent and he did everything in his power to protect Claimant. He also denied that he ever sought to personally profit at the expense of the limited partners. He claimed all his decisions were motivated by investment considerations for the benefit of Claimant, and not to generate commissions for himself.

RELIEF REQUESTED

Claimant requested: \$185,000 in damages plus interest.

Respondents requested: the claims be dismissed in their entirety.

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 original remain on file with the NASD.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing and post hearing submissions, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent Foley is liable to Claimant in the amount of **SIXTY FIVE THOUSAND DOLLARS AND ZERO CENTS (\$65,000.00)**.
2. Respondent Foley is liable to Claimant for all forum fees.
3. All claims against Respondent Irvine are dismissed.

FORUM FEES

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

Nonrefundable filing fee:	\$ 200.00
Hearing Session Deposit (\$750.00 x 2 sessions)	\$1500.00
Total fees:	\$1700.00

1. Claimant paid \$950.00

2. Respondent Foley owes \$950.00 payable directly to the Claimant and \$750.00 payable directly to the NASD.

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

Concurring Arbitrators' Signatures

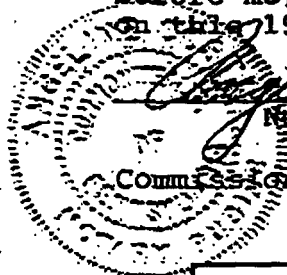
Name

Raymond M. Komichak
Raymond M. Komichak, Esq.

Public Chairperson

Sworn to and Subscribed NASD
before me, a Notary Public,
on this 19th day of May, 1995.

Date of Decision: May 24, 1995



Angeline Costa
Notary Public

Commission Expires:

Notarial Seal
Angeline Costa, Notary Public
Pittsburgh, Allegheny County
My Commission Expires Dec. 5, 1995
Member, Pennsylvania Association of Notaries

05/23/95 18:27 912 733 8582
05-19-95 11:33AM FROM NASD ARBITRATION

Dennis Shannon
TO 914127338382

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Concurring Arbitrators' Signatures
Name

Industry


Dennis R. Shannon

NASD Date of Decision: May 24, 1995

MAY 23, 1995


NOTARY PUBLIC

Notarial Seal
Charlotte A. Darr, Notary Public
Monroeville Boro, Allegheny County
My Commission Expires March 1, 1999
Member, Pennsylvania Association of Notaries