

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Bumi B. Cooper

vs.

NASD #93-2845

Name of Respondents

*Public & Private Investments, Inc.,
Jack S. Jacob*

REPRESENTATION

For Claimant: *Gerard Lannay, Esq. of Berkeley, CA.*

For Respondents: *David Finkelstein, Esq. of Anderton, Cohen, Finkelstein,
Emerick & McSweeney of San Mateo, CA*

CASE INFORMATION

Statement of Claim filed: *July 21, 1993*

Claimant's Submission Agreement signed: *July 14, 1993*

Statement of Answer filed by Respondents on: *September 3, 1993*

Respondents' Submission Agreements signed on: *September 3, 1993*

HEARING INFORMATION

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

Hearing Date/(Sessions): *February 8, 1994 (one)*

Hearing Location: *San Francisco, CA*

CASE SUMMARY

Claimant alleged:

Breach of fiduciary duty, breach of duty of care, fraud in the purchase of Lincoln High Yield Program. At the time of this purchase, claimant was in Chapter 11 bankruptcy, did not have substantial income or assets, was over the age of 65, needed a safe investment and was an unsophisticated investor. Respondents solicited the investment from claimant and represented it would likely provide an annual return of no less than 17%, and that it was a safe investment.

Respondents alleged:

Respondents, jointly and severally, generally and specifically, denied each and every allegation of the Statement of Claim, and alleged various affirmative defenses, including Statute of limitations, waiver, laches, failure to mitigate, consent, ratification and accord and satisfaction.

RELIEF REQUESTED

Claimant requested:

1. Principal sum of \$25,000.;
2. Interest at the legal rate from and after October 1, 1991;
3. Costs of suit and attorney's fees;
4. Punitive damages according to proof.

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. Respondents are jointly and severally liable for and shall pay claimant \$17,506.⁰⁰ provided claimant returns all of her interest in the Lincoln High Yield Program;
2. All other claims, including the claim for punitive damages, are dismissed;

3. The parties shall each bear their respective attorney's fees;
4. 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 retain the ~~\$400~~ hearing session deposit previously deposited by the claimant. Forum fees assessed against:

Not applicable

calculated as follows: one hearing session at ~~\$400~~^{\$} hearing session, equals \$ 400.⁰⁰, minus \$ already paid by the claimant as a hearing deposit.

Fees are payable to the National Association of Securities Dealers.

ARBITRATION PANEL

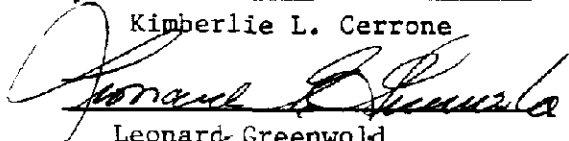
Name

Public/Industry

Concurring Arbitrators' Signature



Kimberlie L. Cerrone



Leonard Greenwold



Matthew J. Williams

Date Served: 02/08/94

Date of Decision:

2-8-94