

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the matter of the Arbitration Between

Name of Claimant(s)

Vernon and Isabelle Elstad, as
Trustees of the Elstad Family Trust

NASD Arbitration
No. 93-03296

Name of Respondent(s)

Royal Alliance Associates, Inc.
Gary W. Sherwold

REPRESENTATION

For Claimants: Paul N. Young, CEO, Securities Arbitration Group,
Inc., Marina del Rey, California

For Respondents: Robert M. Anderson, Esq., Wilson, Elser,
Moskowitz, Edelman & Dicker, Los Angeles, California

CASE INFORMATION

Statement of Claim filed: August 18, 1993

Claimants' Submission Agreement signed: August 6, 1993

Joint Statement of Answer filed by Respondents: October 18, 1993

Respondents' Submission Agreements signed as follows:

Royal Alliance Associates, Inc.: October 20, 1993 and
February 8, 1994

Gary W. Sherwold: December 16, 1993

HEARING INFORMATION

Pre-Hearing Conference Date(s)/Session(s): None

Hearing Date(s)/Session(s): June 23, 1994 (two sessions)

Hearing Location: Los Angeles, California

CASE SUMMARY

Claimants alleged that they filed their Claim to recover

monetary losses because Respondents made misrepresentations regarding a variable annuity investment that was not suitable for Claimants. Claimants also alleged the following causes of action: 1) suitability; 2) misrepresentation; 3) violations of National Association of Securities Dealers, Inc. (NASD) guidelines and Rules of Fair Practice, including, but not limited to, Article III, Sections 1 and 18, and Article III Section 2; 4) breach of fiduciary duty and fraud; 5) Excessive commissions and trading; 6) violation of SEC Rule 15c1-2 (Manipulative and Deceptive Practices); 7) violations of NYSE Rule 405 (Know Your Customer); and 8) violations of California Corporate Securities Code Sections, Elder Abuse and Dependent Adult Civil Protection Act with applicable remedies including, but not limited to, Civil Code Section 3294.

Respondents denied Claimants' allegations of wrongdoing and alleged that the variable annuity investment was suitable for Claimants. Respondents further alleged that Gary W. Sherwold reviewed with the Claimants the risks and benefits associated with their investment and provided Claimants with a prospectus. Respondents also asserted affirmative defenses.

RELIEF REQUESTED

Claimants requested damages according to proof of not less than \$24,113.00. Additional amounts claimed, according to proof: Interest of not less than \$8,000.00, excess commissions of \$5,000.00, punitive damages of \$25,000.00 and costs of \$5,000.00.

Respondents requested:

1. That Claimants take nothing by way of their Statement of Claim;
2. That the Claimants' Statement of Claim be dismissed as against Respondents in its entirety, with prejudice;
3. That Respondents be awarded their costs and disbursements incurred herein, and that Claimants be assessed all forum fees; and
4. Such other and further relief as may be just and equitable.

OTHER ISSUES CONSIDERED AND DECIDED

The parties have agreed that the Award in this matter may be executed in either 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. All claims by Claimants, including the claim for punitive damages are dismissed.

2. 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 following forum fees are assessed: The NASD shall retain the \$500.00 hearing session deposit previously deposited by the Claimants. Forum fees are to be split between the parties and are calculated as follows:

Two hearing sessions @ \$500.00/session	=	\$1,000.00
Total fees assessed	=	\$1,000.00

Claimants' share (50%)	=	\$ 500.00
Credit for hearing deposit	=	\$ 500.00
Balance due	=	\$ 0.00

Respondents' share, jointly and severally	=	\$ 500.00
Balance due	=	\$ 500.00

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

ARBITRATORS

<u>Name</u>	<u>Public / Industry</u>
Don Sweeney, Esq.	Public Arbitrator
Joseph S. Tarrer, III	Public Arbitrator
Charles A. Graham	Industry Arbitrator

Concurring Arbitrators' Signatures

Don Sweeney, Esq.



Joseph S. Tarrer, III

Charles A. Graham

Date of Decision:

7.13.94