

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Frank Micara

93-03320

Name of Respondents

SunAmerica Securities, Inc.
Gioia del Campo
Streetfield Agency, Inc.

REPRESENTATION

For claimant Frank Micara ("claimant") appeared Richard B. Cohen, Esq. of the law firm Akabas & Cohen, located in New York, New York.

For respondent SunAmerica Securities, Inc. ("SunAmerica") appeared Jeffrey E. Livingston, Esq. of the law firm of Gilbert, Segall and Young located in New York, New York.

For respondent Gioia del Campo ("del Campo") appeared Jonathan C. Thau, Esq. of the law firm of Wilson Elser Moskowitz Edelman & Dicker located in New York, New York.

Respondent Streetfield Agency, Inc. is not a member of the NASD and did not voluntarily submit to the NASD's jurisdiction.

CASE INFORMATION

Statement of Claim was filed on August 19, 1993. Claimant's Submission Agreement was signed on August 19, 1993.

Statement of Answer was filed by respondent SunAmerica on December 10, 1993. Respondent SunAmerica's Submission Agreement was signed on December 7, 1993.

Statement of Answer was filed by respondent del Campo on December 10, 1993. Respondent del Campo's Submission Agreement was signed on January 5, 1994.

HEARING INFORMATION

Pre-Hearing Conference:	March 29, 1996	-	One Arbitrator
Hearing Dates/Sessions:	October 11, 1994	-	Two Sessions
	October 12, 1994	-	Two Sessions
	March 8, 1995	-	Two Sessions
	March 14, 1995	-	Two Sessions
	May 30, 1995	-	Two Sessions
	June 5, 1995	-	Two Sessions
	July 6, 1995	-	One Session
	December 12, 1995	-	Two Sessions
	December 13, 1995	-	Two Sessions
	July 24, 1996	-	Two Sessions
	July 25, 1996	-	Two Sessions
	July 26, 1996	-	Two Sessions

The hearings were held at the offices of the National Association of Securities Dealers, Inc. located in New York, New York.

CASE SUMMARY

Claimant alleged that, in or about August of 1987, del Campo, representing Streetfield and Sun America, solicited him to open accounts with the firms since he had just lost his job and had pension and other funds to roll over. Claimant contended that he had no expertise and little experience in investments. Claimant further contended that, after listening to del Campo's solicitations, he invested all of his retirement monies with respondents, which consisted of his IRA proceeds of \$19,488.25, pension rollover of \$75,765.00 and other profit sharing funds of \$153,265.00.

Claimant asserted that he explained to del Campo that the moines he was investing was his sole retirement funds by which he intended to support himself, his wife and his disabled son. Claimant also asserted that he told del Campo that his investments had to be liquid and that he wanted to maintain his principal and get the highest yield possible consistent with a safe, conservative investment, with little or no risk.

Claimant contended that del Campo neglected to follow his investment instructions and, instead, generated frequent and high commissions for herself by placing him in unsuitable investments. Specifically, claimant alleged that del Campo invested \$150,000.00 of the profit sharing funds in Phoenix Leasing Cash Distribution Fund II ("Phoenix") and the balance of \$3,265.00 in National Bond Fund ("National"). Claimant further alleged that Phoenix was a risky and illiquid limited partnership which was in no way suitable for his objectives.

Claimant also alleged that del Campo set up his investments in order to generate regular commissions. Specifically, claimant contended that del Campo structured his investment in Phoenix and National in such a way that quarterly or other distributions from Phoenix were

automatically directed into National, creating a second layer of commissions on every distribution. Claimant alleged that this structure was never disclosed to him.

Claimant alleged that the leasing market which Phoenix was engaged in collapsed so that his initial \$150,000.00 investment became worth only \$8,726.00. Claimant further contended that due to this loss of money his plans for retirement have been disrupted.

Claimant also alleged that del Campo invested his other funds improperly. Claimant contended that his IRA proceeds were placed into Southmark Prime Plus, L.P. ("Southmark"), a limited partnership which invested in a pool of mortgages. Claimant further contended that the investment was unsuitable because it was high risk, illiquid and generated high commission fees for respondents. Claimant asserted that the \$19,488.25 he invested in Southmark became worthless when Southmark filed for bankruptcy.

Claimant contended that the pension rollover of \$75,765.00 was also invested in unsuitable investments which have since plummeted drastically. Claimant asserted that \$50,000.00 was invested in New York Life Oil & Gas ("NYLOG"), an oil and gas limited partnership. Claimant alleged that the investment was unsuitable because it was long-term, illiquid and very risky.

Respondent del Campo maintained that the claims were entirely frivolous. Respondent del Campo contended that claimant had been doing business with her since 1981. Respondent del Campo further contended that she did not exercise discretion with regard to claimant's account, but that all investments at issue were made by claimant.

Respondent del Campo maintained that she presented Phoenix as a potential investment with both risks and rewards, and suggested that claimant consider it for a portion of the funds at issue. Respondent del Campo further maintained that claimant reviewed all the materials she gave him and then told her that he wanted to invest all the funds in questions in Phoenix. Respondent del Campo contended that she advised claimant that he should diversify his investment, but that he was adamant about investing all the funds in questions in Phoenix. Respondent del Campo also contended that she executed the trades for claimant as he wished, but noted in a letter to him that she did so only because he requested it be done this way.

Respondent del Campo contended that all of claimant's investments were discussed with him in detail and that claimant ultimately made all of his own investment decisions. Respondent del Campo maintained that claimant followed all of his investments carefully and, therefore, his allegation of passive reliance upon her is wholly untrue.

Respondent SunAmerica maintained that at the times when most of the investments which claimant complains of occurred, neither del Campo nor claimant had any relationship with SunAmerica. Respondent SunAmerica contended that del Campo did not come to have any relationship with SunAmerica until June of 1989. Respondent SunAmerica further contended that it had no successor liability for the actions of the predecessor firm or its employees.

Respondent SunAmerica maintained that the only investment that claimant complained of that occurred when a relationship existed between them was the purchase of NYLOG. Respondent

SunAmerica contended that claimant made his own investment decision and that NYLOG is a performing investment and claimant suffered no loss with respect to it.

RELIEF REQUESTED

Claimant requested damages in an amount to be determined, but in any event in excess of \$1,000,000.00, treble the actual damages sustained, punitive damages of \$1,000,000.00, prejudgment interest, attorneys' fees, costs and disbursements, and any other relief as may be just and proper.

Respondent del Campo requested that the panel dismiss the Statement of Claim in its entirety and assess the full measure of forum fees against the claimant.

Respondent SunAmerica did not specifically request relief.

OTHER ISSUES CONSIDERED & DECIDED

By letter dated February 8, 1996 the parties were advised that arbitrator Sidney Horowitz, who was serving as chairman of the panel, had passed away. In accordance with Section 24 of the Code of Arbitration Procedure, a new arbitrator, Jean Fox, was appointed to this matter and the hearings continued.

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. All claims against SunAmerica and del Campo be and hereby are dismissed in their entirety.
2. Claimant's request for treble damages is denied.
3. Claimant's request for punitive damages is hereby denied.
4. The parties shall bear their own costs, including attorneys' fees.
5. All other claims are hereby denied.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the arbitrators have determined

that the NASD shall retain the \$250.00 non-refundable filing fee previously deposited by claimant and have assessed the following forum fees:

Pre-hearing conference	= \$ 300.00
23 hearing sessions x \$1,000.00	= <u>\$23,000.00</u>
Total forum fees assessed	= \$23,300.00

1. Claimant be and hereby is liable for the sum of \$5,825.00, representing, twenty-five percent of the total amount of forum fees assessed. Claimant previously deposited \$1,000.00 with the NASD and, therefore, claimant is liable and shall pay \$4,825.00 to the NASD.
2. Respondent del Campo be and hereby is liable for the sum of \$17,475.00, representing seventy-five percent of the total amount of fees assessed. Respondent del Campo previously deposited \$5,000.00 with the NASD and, therefore, respondent del Campo is liable and shall pay \$12,475.00 to the NASD.

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

Arbitrators' Signatures



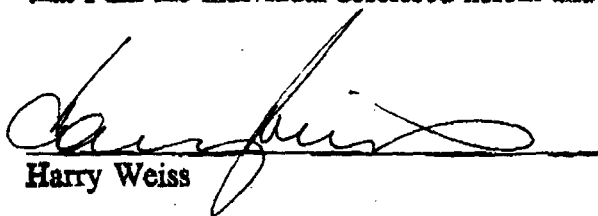
Harry Weiss
Chairperson-Public Arbitrator

Jean C. Fox
Public Arbitrator

Richard S. Peskin, Esq.
Industry Arbitrator

Date of Decision: October 25, 1996

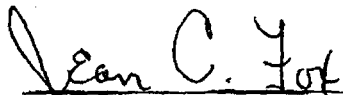
I, Harry Weiss, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.



Harry Weiss

Arbitrators' Signatures

Harry Weiss
Chairperson-Public Arbitrator

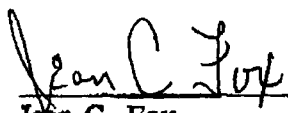


Jean C. Fox
Public Arbitrator

Richard S. Peskin, Esq.
Industry Arbitrator

Date of Decision: October 25, 1996

I, Jean C. Fox, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.




Jean C. Fox

Arbitrators' Signatures

Harry Weiss
Chairperson-Public Arbitrator


Jean C. Fox
Public Arbitrator



Richard S. Peskin, Esq.
Industry Arbitrator

Date of Decision: October 25, 1996

I, Richard S. Peskin, Esq., do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.



Richard S. Peskin, Esq.