

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Roberto and Charo Mendoza

93-04326

Name of Respondents

Rickel & Associates
Arnold Cohen

REPRESENTATION

Claimants Roberto and Charo Mendoza appeared pro se.

For Respondent Rickel & Associates appeared Arnold Cohen and Anthony Franco.

Respondent Arnold Cohen appeared pro se.

CASE INFORMATION

The Statement of Claim was filed on October 12, 1993 and the submission agreement was executed by both Claimants on October 12, 1993.

Respondent Rickell & Associates' Statement of Answer was filed on February 9, 1994 and the Submission Agreement was executed on March 2, 1994.

Respondent Arnold Cohen's Statement of Answer was filed on February 9, 1994 and his Submission Agreement was executed on February 9, 1994.

HEARING INFORMATION

Hearing Date/Sessions: October 5, 1994 - One Session

CASE SUMMARY

Claimants Roberto and Charo Mendoza ("Claimants") alleged that in January

1986, they purchased \$45,000.00 of F.H.A. Philadelphia Small Rental Properties Zero-Coupon bonds from Respondent Rickel & Associates. Claimants further alleged that they made Respondent Rickel aware that this was the first time Claimants had invested in municipal bonds and that they wanted a safe, secure, long-term, tax-free investment.

Claimants also alleged that Respondents never explained to them the various types of bonds available or that the F.H.A. bonds were the highest callable; that if they were aware of the F.H.A. bonds callability, they would have bought treasury or non-callable bonds. Claimant further alleged that these omissions violated NASD Rules Article 3, Section 14; SEC General Rules and Regulations in the Securities Act of 1933; and, in addition, that Respondents failed to disclose the bondholders responsibilities and the bank which held the note.

Furthermore, Claimants alleged that Respondent Rickel & Associates breached their fiduciary duty to inform Claimants that the bonds had been called on February 1, 1989 and that Claimants did not become aware of this until Claimants called Respondent Cohen on March 1, 1993 to sell \$20,000.00 of the bonds. Claimants also alleged that they remained at the same address during the life of the investment and that, therefore, Respondents could have informed Claimants that the bonds were called. Claimants further alleged that Respondents failure to inform Claimants that the bonds were called resulted in a monetary loss of loss interest, which the bank is not obligated to pay.

Respondent Rickel & Associates maintained that on January 3, 1986, Respondent received a request from Claimants to purchase \$45,000.00 of F.H.A. bonds, a transaction handled by an account executive that left the Respondent firm in October 1986. Respondent Rickell & Associations also maintained that Respondent, pursuant to Rickell & Associates policy, explained the callability of the zero-coupon bonds and that any F.H.A. bond has a degree of callability because they are backed by mortgages. Respondent further maintained that the bonds were rated at a safety level of AA and S&P.

Additionally, Respondent Rickel & Associates maintained that the confirmation of the bonds was sent to Astoria, New York and upon receipt of payments, bonds were sent to Milford, Pennsylvania. Respondent maintained that if Claimants had any questions regarding their bonds, they should have raised their questions upon receipt of the bonds in May 1986. Respondent further maintained that Claimants were knowledgeable of the identity of the bank holding the note, Philadelphia National Bank, because it appears on the face of the bond. Respondent maintained as an affirmative defense that no security firm can be responsible for calls once the bonds leave their possession.

Lastly, Respondent Arnold Cohen requested an immediate dismissal. Respondent Cohen maintained that he was assigned in 1987 to Claimant's account once the original account executive left and did not sell or solicit the purchase of the

F.H.A. bond.

RELIEF REQUESTED

Claimants requested an award in the sum of \$45,000.00, plus any punitive damages and/or any treble damages the panel deems justifiable against Rickel & Associates and Arnold Cohen.

Respondent Rickel & Associates requested that the Statement of Claim be dismissed.

Respondent Arnold Cohen requested immediate dismissal and relief from this arbitration.

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.

At the hearing, Respondent Arnold Cohen requested the immediate dismissal of all claims alleged against him as he had no involvement with the Claimants at the time the bonds were sold to the Claimants. The panel determined to grant the request to dismiss all claims against Arnold Cohen, with prejudice, after allowing the parties a full and fair opportunity to present oral arguments on the issue.

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. Respondent Rickel be and hereby is liable and shall pay to the Claimant the sum of \$2,500.00, interest specifically excluded.
2. All claims for punitive damages be and hereby are denied.
3. All claims for treble damages be and hereby are denied.
4. Each party shall bear their respective costs.
5. Respondent Rickel & Associates be and hereby is liable and shall reimburse Claimants the sum of \$150.00 representing outstanding forum fees previously deposited by Claimants with the NASD.

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Claimants also alleged that Respondents never explained to them the various types of bonds available or that the F.H.A. bonds were the highest callable; that if they were aware of the F.H.A. bonds callability, they would have bought treasury or non-callable bonds. Claimant further alleged that these omissions violated NASD Rules Article 3, Section 14; SEC General Rules and Regulations in the Securities Act of 1933; and, in addition, that Respondents failed to disclose the bondholders responsibilities and the bank which held the note.

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Respondent Rickel & Associates maintained that on January 3, 1986, Respondent received a request from Claimants to purchase \$45,000.00 of F.H.A. bonds, a transaction handled by an account executive that left the Respondent firm in October 1986. Respondent Rickell & Associations also maintained that Respondent, pursuant to Rickell & Associates policy, explained the callability of the zero-coupon bonds and that any F.H.A. bond has a degree of callability because they are backed by mortgages. Respondent further maintained that the bonds were rated at a safety level of AA and S&P.

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3. All claims for treble damages be and hereby are denied.
4. Each party shall bear their respective costs.
5. Respondent Rickel & Associates be and hereby is liable and shall reimburse Claimants the sum of \$150.00 representing outstanding forum fees previously deposited by Claimants with the NASD.

6. Any and all other claims be and hereby are denied.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the arbitrators have determined that the following Forum Fees are assessed:

1 sessions X \$400 = \$400.00 balance due.

Respondent Rickel & Associates be and hereby is liable and shall pay to the NASD the sum of \$400.00.

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

Concurring Arbitrators' Signatures
Name

John J. Phelan, Esq.
Public Arbitrator - Chairperson

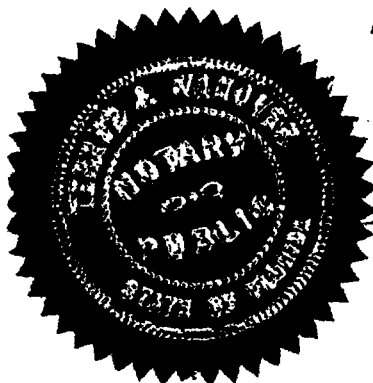
Roger S. Smith
Public Arbitrator



Arnold ~~W.~~ Kaplan
Industry Arbitrator

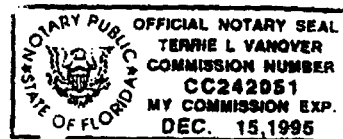
STATE OF FLORIDA
COUNTY OF PALM BEACH

On this 17th day of NOVEMBER, 1994, before me personally appeared ARNOLD KAPLAN known to me to be the individual described in and who executed the foregoing instrument and duly acknowledged to me that he/she executed the same.





Terrie L. Vanover



Executed on: October 5, 1994
Date of Decision: October 5, 1994

Date of Decision: November 22, 1994

6. Any and all other claims be and hereby are denied.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the arbitrators have determined that the following Forum Fees are assessed:

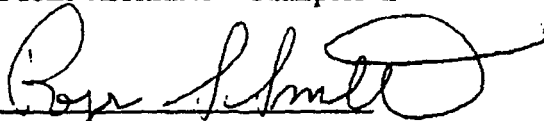
1 sessions X \$400 = \$400.00 balance due.

Respondent Rickel & Associates be and hereby is liable and shall pay to the NASD the sum of \$400.00.

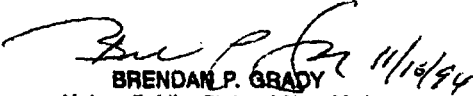
Fees are payable to the National Association of Securities Dealers, Inc.

Concurring Arbitrators' Signatures
Name

John J. Phelan, Esq.
Public Arbitrator - Chairperson



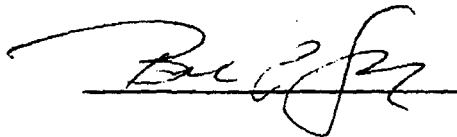
Roger S. Smith
Public Arbitrator

 11/14/94
BRENDAN P. GRADY
Notary Public, State of New York
No. 4993057
Qualified in Westchester County
Commission Expires March 8, 1996

Arnold M. Kaplan
Industry Arbitrator

STATE OF
COUNTY OF

On this 10th day of NOVEMBER, 1994, before me personally appeared
Roger S. Smith known to me to be the individual described in and
who executed the foregoing instrument and duly acknowledged to me that he/she
executed the same.



Date of Decision: November 22, 1994

6. Any and all other claims be and hereby are denied.

FORUM FEES

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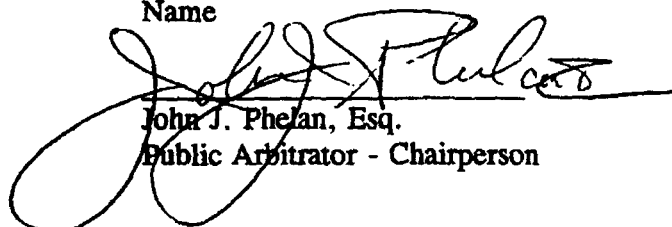
1 sessions X \$400 = \$400.00 balance due.

Respondent Rickel & Associates be and hereby is liable and shall pay to the NASD the sum of \$400.00.

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

Concurring Arbitrators' Signatures

Name

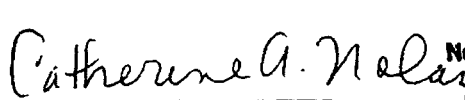

John J. Phelan, Esq.
Public Arbitrator - Chairperson

Roger S. Smith
Public Arbitrator

Arnold M. Kaplan
Industry Arbitrator

STATE OF
COUNTY OF

On this 16th day of November, 1994, before me personally appeared JOHN J. PHELAN III known to me to be the individual described in and who executed the foregoing instrument and duly acknowledged to me that he/she executed the same.


CATHERINE A. NOLAN
Notary Public, State of New York
No. 01N05027120
Qualified in New York County
Commission Expires May 2, 1996

Date of Decision: November 22, 1994