

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.
In the matter of the Arbitration Between

Name of Claimant

The Doris H. Yager Revocable Family Trust

NASD Arbitration
#93-04615

vs.

Name of Respondents

Roger Smith
James R. Johnson
Joseph B. Nix

REPRESENTATION

For Claimant: Richard Sacks, Investors Recovery Service, Novato, California

For Respondents: Thomas J. LoSavio, Esq., Low, Ball & Lynch, San Francisco, California

CASE INFORMATION

Statement of Claim filed: November 5, 1993

Claimants' Submission Agreements signed: October 1, 1993

Joint Statement of Answer filed: January 25, 1994

Respondents' Submission Agreements signed: January 24, 1994

HEARING INFORMATION

Pre-hearing telephone conference held: September 6, 1994 - 1 session

Hearing dates/sessions: September 13, 1994 - 2 sessions
September 14, 1994 - 2 sessions

Hearing location: San Francisco, California

CASE SUMMARY

Claimant alleged breach of fiduciary duty, negligence, misrepresentation and lack of suitability with respect to investments in limited partnerships.

Respondents Johnson and Nix denied the allegations of the claim, and stated they had never engaged in any transaction with or on behalf of Claimant. Respondent Smith denied the allegations of the claim, and asserted that Claimant was fully informed of the nature and risks of the investments prior to purchase, that all investments were suitable, and further that all claims are barred by the passage of time, as the investments were made between March, 1984 and January, 1989.

RELIEF REQUESTED

Claimant requested damages of approximately \$251,542 plus costs of arbitration.

Respondents requested dismissal of all claims.

OTHER ISSUES CONSIDERED & DECIDED

During the course of the hearing, upon motion by counsel for Respondents, the panel dismissed all claims against James R. Johnson and Joseph B. Nix.

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 remains 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 asserted against Roger Smith are dismissed in their entirety.


FORUM FEE

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the NASD shall retain Claimant's \$200 non-refundable filing fee and \$750 hearing session deposit as an assessment of forum fees for 1 session.

ARBITRATORS

<u>Name</u>	<u>Public / Industry</u>
James C. Ingwersen	Public
Claude A. Barbieri	Public
Linda H. Perry-Cabrera	Industry

Concurring Arbitrators Signatures



James C. Ingwersen

Claude A. Barbieri

Linda H. Perry-Cabrera

Date of Decision: 09/26/94

Date Served: 09/29/94

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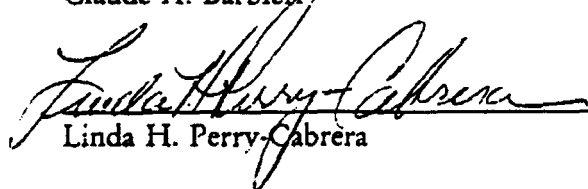
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Date of Decision: _____

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