

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Vincent F. Buttigieg and Mary S. Buttigieg

93-05156

Name of Respondents

Roney & Co.;
Derrell A. Saykally, Jr.

REPRESENTATION

For Claimants: Vincent F. Buttigieg and Mary S. Buttigieg ("Buttigieg") were represented by Mark Quinn, Esq. of the Law Office of Dennis Krolczyk, P.C., located in Manistee, Michigan.

For Respondents: Roney & Co. and Derrell A. Saykally, Jr. ("Saykally") were represented by Raymond W. Henney, Esq. of Honigman Miller Schwartz and Cohn, located in Detroit, Michigan.

CASE INFORMATION

Statement of Claim filed: December 14, 1993.

Claimants' Submission Agreement signed on: December 8, 1993.

Statement of Answer filed by Respondents on: March 18, 1994.

Respondent Roney & Co.'s Submission Agreement signed on: April 22, 1994 by Lewis Echlin, General Partner, Roney & Co.

Respondent Saykally's Submission Agreement signed on: May 2, 1994.

HEARING INFORMATION

Pre-Hearing Conference: None Held.

Hearing Dates/Sessions: November 22, 1994 for Two (2) sessions; and
November 23, 1994 for Two (2) sessions.

Hearing Location: Southfield, Michigan.

CASE SUMMARY

Claimants alleged that Respondent Saykally, while employed by or acting as an agent for Respondent Roney & Co., misrepresented relevant facts regarding an investment in the Krupp Cash Plus-IV Limited Partnership, inducing the Buttigiogs to invest all their retirement money in the one investment in May of 1988, and failing to adequately diversify the account.

Respondents denied the material allegations of the Statement of Claim, alleging that Krupp Cash Plus IV was not a highly leveraged limited partnership, but was a diversified investment vehicle for investors looking for safety and current income which fully satisfied the investment objectives communicated to Saykally. Claimants received a prospectus and reviewed the material for at least one week before making their decision to invest. In addition, it was asserted that Claimants were continually advised of the performance of the investment and knew of the loss of principal, but did nothing until the start of this arbitration. Respondents asserted the affirmative defense that the claim was barred by the statute of limitations, estoppel and/or ratification.

RELIEF REQUESTED

Claimants requested entry of an award against Respondents for actual damages in the sum of \$115,993.41; punitive damages in the sum of \$50,000.00; lost interest; costs and attorneys' fees; and any other relief the arbitrators felt was reasonable, fair, appropriate and equitable.

Respondents requested that the claims be denied in their entirety.

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. The Statement of Claim is hereby dismissed with prejudice and denied in its entirety;
2. The parties shall bear their own costs of arbitration, including attorneys' fees, except for those specifically enumerated herein; and

3. Any relief not specifically granted is hereby denied.

OTHER COSTS

The Claimants are liable for and shall pay to the NASD the sum of \$15.00 as the fee due the NASD for providing the arbitrators' past awards.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed: Four (4) hearing sessions x \$750.00 per hearing session = \$3000.00.

The National Association of Securities Dealers, Inc. shall retain the \$200.00 non-refundable claim filing fee and the \$750.00 hearing session deposit previously deposited by the Claimants, Vincent F. Buttigieg and Mary S. Buttigieg. In addition, Claimants Vincent F. Buttigieg and Mary S. Buttigieg are liable for and shall pay to the NASD the sum of \$750.00 as additional forum fees. Furthermore, Respondents Roney & Co. and Derrell A. Saykally, Jr. are jointly and severally liable for and shall pay to the NASD the sum of \$1,500.00 as forum fees.

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

Concurring Arbitrators' Signatures

Name

Date

/s/ Tracy L. Allen, Esq.
Tracy L. Allen, Esq.
Public Arbitrator
Chairperson

January 24, 1995

/s/ Michael J. Meeusen
Michael J. Meeusen
Public Arbitrator

January 30, 1995

/s/ Mary Ann Golin
Mary Ann Golin
Industry Arbitrator

January 24, 1995

For NASD Use Only

Date of Decision: February 1, 1995