

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Robert L. and Beverly L. Miller

94-00106

Name of Respondents

Advantage Capital Corporation
Richard E. Dilworth

REPRESENTATION

For Claimants, Robert and Beverly Miller, appeared Robert Miller. (pro se)

For Respondent, Advantage Capital Corporation, appeared Keara M. O'Donnell, Esq., from the law firm of Piper & Marbury, Washington, D.C.

For Respondent, Richard E. Dilworth, appeared Kathleen S. McAllister, Esq. from the law firm of DiBella & Geer, Pittsburgh, Pennsylvania.

CASE INFORMATION

Statement of Claim filed: December 29, 1993

Claimants' Submission Agreement signed on: April 11, 1994

Statement of Answer and Cross-Claim filed by Respondent, Advantage Capital Corporation on: June 23, 1994

Respondent, Advantage Capital Corporation's Submission Agreement signed on: June 14, 1994

Statement of Answer filed by Respondent, Richard E. Dilworth, on: June 15, 1994

Answer to Cross-Claim filed by Respondent, Richard E. Dilworth, on: August 2, 1994

Respondent, Richard E. Dilworth's Submission Agreement signed on: May 27, 1994

HEARING INFORMATION

Pre-Hearing Conference: March 30, 1995

Hearing Date/Sessions: November 7, 1996 (2 Sessions)

Hearing Location: NASD Offices
Philadelphia, Pennsylvania

CASE SUMMARY

Claimants, alleged that they had been friends with Respondent, Richard Dilworth ("Dilworth"), for thirty years and went to Dilworth for advice concerning retirement income. Claimants alleged that Dilworth was aware of their financial situation and knew they did not have a pension to supplement their retirement. Claimants alleged that Dilworth induced them to purchase limited partnerships by assuring them that they would get "a big check in the mail every month."

Claimants alleged that based on Dilworth's statement they invested \$10,000.00 in Granada 4 Limited Partnership ("Granada") on March 3, 1986; \$15,000.00 in VMS Investors First Staged Equity L.P. on October 7, 1987 ("VMS"); 10,000.00 in Merrico Oil & Gas LTD 1986-2 on July 29, 1986 ("Merrico"); 10,000.00 in Star Partners LTD on June 13, 1988; and 5,000.00 in Star Partners LTD II on August 24, 1989.

Claimants alleged that when they expressed their concerns to Dilworth over the lack of income they were receiving from their investments Dilworth stated such things as: VMS would start paying a dividend next month; VMS was having a cash flow problems; and that Granada would sell off their assets and pay off the investors, generally above their initial investments.

Claimants, alleged that Robert Miller contacted Respondent, Advantage Capital Corporation ("Advantage"), to register a complaint against Dilworth and spoke to Bob Joseph; however, Mr. Miller never heard back from Mr. Joseph.

Respondent, Advantage, maintained that from January 1975 through October 1991 Dilworth was a registered representative with Advantage. Advantage maintained, as the Claimants alleged, Dilworth was a friend of the Claimants for 30 years and knew their financial situation well. Advantage maintained that therefore, Dilworth was well positioned to, and did, assess the Claimants financial holdings and recommended appropriate investments.

Advantage maintained that it was without knowledge or information sufficient to form a belief as to the Claimants' allegation regarding Dilworth's misrepresentations and therefore denied the allegation. Advantage maintained that it approved in advance each investment which the Claimants made and that each was suitable for the Claimants in light of their financial circumstances and objectives.

Advantage maintained that the Claimants made their first purchase through Dilworth on March 6, 1986, and invested \$5,000.00 in Granada, and invested an additional \$5,000.00 in Granada on March 14, 1986. Advantage maintained that Granada was a limited partnership engaged in agriculture and food production and designed to provide the tax advantage treatment of income. Advantage maintained that Dilworth evaluated the Claimants' financial situation and needs prior to recommending Granada.

Advantage maintained that Dilworth gave Claimants a prospectus explaining the nature of the partnership and the risks involved. In addition, Advantage maintained that the Claimants signed a "Limited

Partnership Declaration" in which the Claimants acknowledged that they had reviewed the prospectus and understood any risks associated with the investment.

Advantage maintained that on July 28, 1986, the Millers invested \$10,000.00 in Merrico, a limited partnership designed to engage in the acquisition and ownership of oil and gas producing properties and to sell oil and/or gas produced at a profit. Advantage maintained that Merrico offered a high rate of income and the potential to act as a hedge against inflation. Advantage maintained that prior to authorizing Merrico's sale by registered representatives Advantage conducted a thorough due diligence investigation into Merrico. In addition, Advantage maintained that prior to the purchase, Dilworth gave the Claimants a prospectus for their review.

Advantage maintained that Merrico is still a viable partnership which continues to make distributions and that as of June 1994, the Claimants had received \$5,117.08 in distributions. Advantage maintained that in May 1994, Merrico proposed to buy back investor's shares in Merrico at \$39.88 per unit and that the Claimants would be entitled to \$398.80 for their ten shares.

Advantage maintained that the Claimants invested \$15,000.00 in VMS which was a partnership designed to own, operate and ultimately dispose of certain commercial real estate. Advantage maintained that the investment had four objectives: (1) to preserve capital; (2) to achieve capital appreciation; (3) to distribute operating cash flow in a tax advantaged manner; and (4) to generate federal income tax deductions to offset taxable income.

Advantage maintained that as a result of Claimants investment in VMS they have claimed a total of approximately \$22,600.00 in losses on their federal tax returns for the years 1987 through 1993. Advantage maintained that the partnership continues to meet its desired objectives.

Advantage maintained that prior to Claimants investment in VMS Dilworth provided Claimants with a prospectus and the Claimants signed a "Limited Partnership Declaration" indicating that they had received and reviewed the prospectus, and understood the risks involved.

Advantage maintained that the Claimants invested \$10,00.00 in Star Partners through Dilworth on June 13, 1988. Advantage maintained that the partnership was designed to acquire interests in and distribute feature length motion pictures in a joint venture with MGM/UA Communications Co. Advantage maintained that as of June 1994 the Claimants had received \$6,800.00 in distributions from this investment. Advantage maintained that prior to this purchase Dilworth gave the Claimant a prospectus to review and that they signed a "Limited Partnership Declaration."

Advantage maintained that final purchase the Claimants made through Dilworth was an investment of \$5,000.00 in Star Partners II on August 31, 1989. Advantage maintained that this partnership, like Star Partners, was organized to participate in the joint venture with UA/MGM Communications Co. Advantage maintained that Claimants have received \$1,795.00 in connection with this investment as of June 1994.

Advantage maintained that on December 10, 1991, two and a half years after the Claimants' last investment, Mr. Miller telephoned Advantage to register a complaint against Dilworth and spoke to Bob Joseph. Advantage alleged that, soon thereafter, Mr. Miller again called Advantage to complain about Dilworth. Advantage alleged that Mr. Miller spoke to Leslie Bernard Jallans who asked Mr. Miller to put his complaints in writing and send them to her. Advantage maintained that Mr. Miller never did so. Advantage maintained that Advantage followed up with a phone call to Mr. Miller on February 5, 1992 who stated that he had contacted the NASD from material to start an arbitration.

Advantage, in its cross-claim against Dilworth alleged that prior to his association as a registered representative and independent contractor of Advantage in 1975, Dilworth signed a Sales Representative

Agreement (the "Agreement"). Advantage alleged that Paragraph 6 of the Agreement prohibits conduct by a registered representative that does not comply with the high ethical standards which Advantage strives to maintain. Advantage maintained that the Agreement expressly establishes Advantage's right to indemnity against a representative whose acts or omissions result in liability being imposed on Advantage. Advantage maintained that this provision reiterated Advantage's right to indemnification against Dilworth under common law in the event his acts or omissions result in liability being imposed on Advantage.

Respondent, Dilworth, maintained he made his investment recommendations to the Claimants base upon the representations made by Mr. Miller as to his financial condition and investment objectives. Dilworth maintained that the investments recommended were suitable for the Claimants and that investments were approved Advantage financial products.

Dilworth maintained that at the time of Claimants purchase, the industry, including Advantage, was promoting the sale of limited partnerships. Dilworth alleged that it was the change in the tax laws that caused the problems of which the Claimants complain.

Dilworth maintained that he never promised Mr. Miller "a check a month" from the limited partnership investments.

Dilworth maintained that he provided the Claimants with a prospectus for each of the investment opportunities, which informed Claimants of the risks, and that Claimants signed suitability agreements which stated that the Claimants read and understood the risks, and considered the investments suitable for their purposes.

Dilworth, in his reply to Advantage's cross-claim, admitted to signing the Sales Representative Agreement prior to his association with Advantage. However, Dilworth maintained that the question of liability for the allegations asserted by the Claimants is a question of law, which is to be decided by the arbitrators. In addition, Dilworth maintained that Advantage was actively promoting the sale of limited partnerships at the time of Claimants' investments and that all of the investments sold to the Claimants were approved by Advantage.

RELIEF REQUESTED

Claimants requested damages in the amount of \$50,000.00.

Respondent, Advantage Capital Corporation, requested that all claims asserted by the Claimants against Advantage be dismissed in their entirety. In addition, Advantage requested that in the event liability is imposed on Advantage as a result of Dilworth acts or omissions, the panel award damages to Advantage Capital on its cross-claim.

Respondent, Richard Dilworth, requested that the claims asserted against him by the Claimants be denied in their entirety. In addition, Dilworth requested that the cross-claim asserted by Advantage Capital Corporation also be denied in its entirety.

OTHER ISSUES CONSIDERED & DECIDED

1. Respondents, Advantage Capital Corporation and Richard Dilworth, enter separate Motions to Dismiss pursuant to Rule 10304 (formerly, Section 15) of the Code of Arbitration Procedure. After a review of the documents submitted by the respective parties, and oral argument on March 30, 1995, the panel of arbitrators dismissed the claims asserted by the Claimants regarding their investments in Merrico Oil and Gas Income Fund 1986-2 and VMS Investors First-Staged Equity L.P. II.

2. 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. Respondents, Advantage Capital Corporation and Richard Dilworth, are jointly and severally liable and shall pay to the Claimants, Robert and Beverly Miller, the sum of \$12,065.00;
2. Respondent, Advantage Capital Corporation's, cross-claim for indemnification against Richard Dilworth is granted.
3. Each party shall bear their own costs, including attorneys' fees; and,
4. All other requests for relief are denied.

FORUM FEES

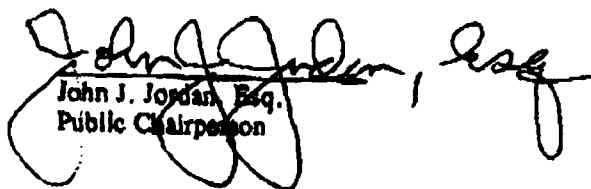
Pursuant to Rule 10332(c) of the Code of Arbitration Procedure, the following Forum Fee(s) are assessed:

Pre-Hearing Conference Fees:	\$ 300.00	(1 Session x \$300)
Hearing Sessions Fees:	\$1200.00	(2 Sessions x \$600)
Total Forum Fees Assessed: \$1500.00		

1. Claimants, Robert and Beverly Miller are assessed \$500.00 representing one-third of the forum fees assessed, less \$400.00 previously deposited with the NASD, leaving \$100.00 due. Robert and Beverly Miller are jointly and severally liable and shall pay to the NASD \$100.00.
2. Respondent, Advantage Capital Corporation, is assessed the amount of \$500.00 representing one-third of the forum fees assessed. Advantage Capital Corporation previously deposited \$600.00 with the NASD and are due a refund of \$100.00.
2. Respondent, Richard Dilworth is assessed the amount of \$500.00 representing one-third of the forum fees assessed. Richard Dilworth is liable and shall pay to the NASD the sum of \$500.00.

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

ARBITRATORS' SIGNATURES


John J. Jordan, Esq.
Public Chairperson

Steven T. Stern, Esq.
Public Panelist

Vernon C. Walker
Industry Panelist

Date of Decision: February 18, 1997

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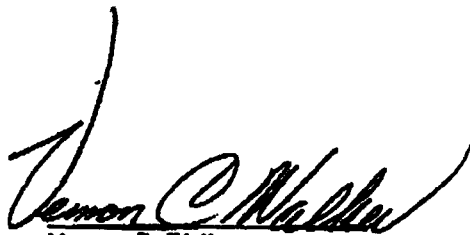
Vernon C. Walker
Industry Panelist

Date of Decision: February 18, 1997

ARBITRATORS' SIGNATURES

John J. Jordan, Esq.
Public Chairperson

Steven T. Stern, Esq.
Public Panelist



Vernon C. Walker
Industry Panelist

Date of Decision: February 17, 1997