

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Itzhak Palivathukal and Nancy E. Brim

94-00289

Name of Respondents

La Jolla Securities, Inc.
First American Biltmore Securities, Inc.
Magna Financial Corporation

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on January 25, 1994, Claimants Itzhak Palivathukal and Nancy E. Brim ("Claimants"), who appeared Pro Se, alleged that Respondents La Jolla Securities, Inc. ("La Jolla"), formerly known as First American Biltmore Securities, Inc. ("FABSI") and Magna Financial Corporation ("MFC"), through their account executive, Marlene J. Weiner, recommended an unsuitable investment as it was not in accordance with their investment goals. Claimants further alleged that Respondents recommended that they purchase shares of Logos stock which they did to their detriment. Claimants contended that they were informed that the Logos was supposed to be exchangeable with Member Services Stock ("MSS") upon maturity. Claimants further contended that when the Logos stock became redeemable, MSS would not exchange the shares. Claimants alleged that they were informed that FABSI was filing a class action against MSS in this matter. Claimants further alleged that the class action filing never took place and as a result of the above, they have suffered a loss for which the Respondents should be held liable.

Respondent La Jolla Securities, Inc., maintained that it has never been affiliated with First American Biltmore Securities, Inc. at any time. Respondent further maintained that it entered into a branch office agreement with MFC and allowed it to conduct its business under its Broker Dealer License as an Office of Supervisory Jurisdiction. Respondent contended that at no time did it assume any prior claims, judgements or encumbrances of MFC whatsoever. Respondent further contended that as a result of the above, it should not be held liable.

Respondent First American Biltmore Securities, Inc. failed to file an Answer to the Statement of Claim.

Respondent Magna Financial Corporation was served on a voluntary basis and did not respond.

RELIEF REQUESTED

Claimants Itzhak Palivathukal and Nancy E. Brim, requested \$10,000.00 in actual damages.

Respondent La Jolla Securities, Inc., requested that the claims of the Claimants be dismissed.

Respondent First American Biltmore Securities, Inc. failed to file an Answer to the Statement of Claim.

OTHER ISSUES CONSIDERED & DECIDED

Although reasonable attempts were made, Respondent First American Biltmore Securities, Inc., was not served with the Statement of Claim.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Robert Daniel Boone, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants Itzhak Palivathukal and Nancy E. Brim, on January 6, 1994, and by the Respondent La Jolla Securities, Inc., on December 13, 1994.

And, the Arbitrator, having considered the proof of the parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. The claims of the Claimants Itzhak Palivathukal and Nancy E. Brim, against the Respondent La Jolla Securities, Inc., are denied in their entirety.
2. The claims of the Claimants Itzhak Palivathukal and Nancy E. Brim, against the Respondent First American Biltmore Securities, Inc., are dismissed without prejudice.
3. The parties shall bear their respective costs.
4. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants Itzhak Palivathukal and Nancy E. Brim, shall be retained by the NASD, Inc.

AFFIRMATION

I, **ROBERT DANIEL BOONE**, do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.


Robert Daniel Boone

DATE OF DECISION: March 19, 1996