

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

James E. Sweeney & Carol Sweeney

94-01393

Name of Respondents

John V. Adams, Jr.
L.C. Wegard & Co., Inc.

REPRESENTATION

Claimants James E. Sweeney and Carol Sweeney ("Claimants") appeared pro se.

For Respondents John V. Adams, Jr. ("Adams") and L.C. Wegard & Co., Inc. ("L.C. Wegard") appeared Marc J. Ross, Esq. of the law firm Bernstein & Wasserman, located in New York, New York.

CASE INFORMATION

Statement of Claim filed: April 11, 1994.

Claimant's Submission Agreement signed on: April 5, 1994.

Joint Statement of Answer filed by Respondents L.C. Wegard and Adams on: August 31, 1994.

Respondent Adam's Submission Agreement was signed on: July 26, 1994.

Respondent L.C. Wegard did not file a Submission Agreement.

HEARING INFORMATION

Pre-Hearing Conferences:	June 9, 1995	-	One Session
	August 4, 1995	-	One Session
Hearing Date/Session:	August 30, 1995	-	Two Sessions

The hearing was held at the William Penn Hotel, located in Pittsburgh, Pennsylvania.

CASE SUMMARY

Claimants alleged that they met Respondent Adams through a mutual friend and that they told him that they did not invest in the stock market because they believed that it was too risky. Claimants asserted that they told Adams they were very conservative and that they took care of Mrs. Sweeney's mother, who required additional income.

Claimants alleged that Adams told them that he had a great investment opportunity that would soar in six months and the yield would be 11.1%. Claimants alleged that they gave Respondent Adams a check for \$9,900.00 to invest and that Adams bought eleven Great American Recreation, Inc. bonds. Claimants maintained that the bonds were junk bonds and that the value of the bonds dropped drastically soon after the purchase. Claimants also maintained that they never would have agreed to purchase junk bonds and that they never received any informative documents or a prospectus prior to the purchase.

Claimants alleged that, in February 1993, they requested that five of the bonds be transferred to Mrs. Sweeney's brother and that, when they received their account statement for the period of January through March which showed the value of the bonds to be \$5,200.00, they assumed that the transfer took place. Claimants further alleged that when they discovered that the bonds were not transferred, they began calling Adams, but they were unable to reach him.

Claimants alleged that when they finally reached Adams he said he was negligent and that he was going to proceed with getting their money back. Claimants also alleged that Adams breached the fiduciary duty owed to them; misled them in to believing the investment was safe and would produce a profit in a short period of time; failed to explain to them the type of investment they were purchasing; and refused to contact them after the investment was made.

Respondents maintained that Claimants' allegations were unfounded. Respondents further maintained that Adams discussed the bonds and the risks associated with them in detail with Mr. Sweeney over the telephone. Respondents also maintained that Adams never represented to the Claimants that the bonds would "soar" in six months because the bonds were designed to be long-term investments.

Respondents maintained that Adams spoke with Claimants on numerous occasions after the purchase of the bonds and that Claimants were sent at least three monthly statements reflecting the purchase. Respondent alleged that Claimants never objected to or complained about the bonds until nine months after the purchase when the price of the bonds decreased.

Respondents alleged that Adams called Claimants on several occasions during the period Claimants alleged he did not return their calls. Respondents further alleged that Adams spoke with Claimants in mid-February 1993 and that Claimants did not complain about the bonds. Respondents maintained that Claimants were sophisticated and that their investment objectives were long term growth speculation, not conservative, as Claimants alleged.

RELIEF REQUESTED

Claimants requested full restitution of the funds they invested and that Adams be penalized for

his deception and fraudulent actions.

Respondents requested that the Statement of Claim be dismissed.

OTHER ISSUES CONSIDERED AND DECIDED

The arbitration made the following rulings as to Respondent L.C. Wegard, who filed an answer in this arbitration, but failed to file an executed Submission Agreement with the NASD:

1. Pursuant to Section 1 of the NASD Code of Arbitration Procedure (the "Code"), the arbitrator found subject matter jurisdiction over this entire controversy and specifically as it related to Respondent L.C. Wegard.
2. The arbitrator found that Respondent L.C. Wegard was a member of the NASD at the time the controversy arose. Consequently, the arbitrator found personal jurisdiction over Respondent L.C. Wegard, pursuant to Section 12(a) of the Code.
3. The arbitrator found that the Statement of Claim was properly served upon Respondent L.C. Wegard, pursuant to Sections 25(a) and (c) of the Code.
4. Consequently, the arbitrator found that, pursuant to Section 25(b) of the Code, Respondent L.C. Wegard was required to execute and file with the NASD a properly executed Submission Agreement.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimants are hereby ordered to return to Respondents the Great American Recreation bonds, including all interest payments and dividends received in connection with the bonds.
2. Respondents L. C. Wegard and Adams are hereby jointly and severally liable and shall pay to the Claimants the sum of \$9,900.00 upon receipt of the bonds, the interest and dividends from the Claimants.
3. Claimants' request that Adams be penalized is hereby denied.
4. Each party shall bear their respective costs, including attorney's fees.
5. All other claims are hereby denied.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the arbitrator has determined that the NASD shall retain the \$75.00 non-refundable filing fee previously deposited by Claimants and have assessed the following forum fees:

2 Pre-hearing conferences x \$200.00	=	\$ 400.00
2 hearing sessions x \$200.00	=	\$ 400.00
minus hearing session deposit	=	\$ 200.00
Total fees outstanding	=	\$ 600.00

Respondents L.C. Wegard and Adams be and hereby are jointly and severally liable and shall pay to the NASD the sum of \$600.00, representing the amount of forum fees outstanding.

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

ARBITRATOR'S SIGNATURE


Robert C. Devlin, Esq.
Public Arbitrator

Date of Decision: November 7, 1995