

**NATIONAL ASSOCIATION OF SECURITIES DEALERS  
AWARD**

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In the matter of the Arbitration Between

Sylvan B. Malis and Hideko E. Malis,  
Joint Tenants and Sylvan B. Malis and  
Hideko E. Malis, Co-Trustees of Coast  
Mobilephone Service Defined Benefit  
Plan,

Claimants,

v.

NASD No. 94-01599

Titan/Value Equities Group, Inc., Successor-  
In-Interest to Titan Capital Corporation, Inc.;  
Robert H. Osur, dba Pension Investment  
Consulting Group,

Respondents.

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***Representation***

For Claimant: Jules Federman of Investors Rights Association and Dennis Merenbach, Esq.,  
Santa Barbara, California

For Respondents Robert Osur (Osur) and Titan/Value Equities Group, Inc. (Titan): Fredrick  
Rafeedie, Esq., of Jones Bell, Simpson & Abbott, Los Angeles, California

***Case Information***

Statement of Claim filed: April 15, 1994

Claimants' Submission Agreement signed: January 24, 1994

Statement of Answer of Titan filed on: July 28, 1994

Statement of Answer of Osur filed on: The arbitration was stayed as to Mr. Osur pursuant to a  
bankruptcy order, described under Osur's submission agreement filing, below.

Respondent Titan's Submission Agreement signed on: June 21, 1994

Respondent Osur's Submission Agreement: Did not file a Submission Agreement. The case was stayed as to Mr. Osur pursuant to an United States Bankruptcy order of discharge of debtor dated May 6, 1994.

### ***Hearing Information***

Prehearing Conference Date(s)/Sessions: None

Hearing Date/Sessions: May 18/two, 19/two, 1995

Hearing Location: Los Angeles, California

### ***Case Summary***

Claimants alleged failure to disclose, fraud for misrepresentation, violation of National Association of Securities Dealers and New York Stock Exchange rules, breach of fiduciary duty and implied covenant of good faith and fair dealing in the recommendation and purchase of various IDM and Hill Williams Funds. Claimants also alleged negligent misrepresentation, common law fraud and violation of the Employee Retirement Income Security Act of 1974 (Erisa). Claimants' investment history prior to meeting Respondent Robert Osur (Osur) consisted of conservative investments, which was also their objective. Osur represented himself as a retirement management specialist.

Respondent Titan denied all claims of wrongdoing and alleged that Claimants were the successful owners and operators of two large businesses and were referred to Osur by their certified public accountant. Claimants advised Osur they were unhappy with the performance of their investments and requested recommendations from him. At no time did Claimants request investments which were risk-free. When recommendations were made, Sylvan Malis asked for a revised list because he did not feel the suggested investments would provide enough income and growth. Full disclosure was made regarding the risks of each investment, including the lack of liquidity. Respondent also alleged that prior to making the recommendations, Claimants had advised Osur that their personal net worth was approximately \$870,000, with assets totalling in excess of \$1.6 million.

### ***Relief Requested***

Claimant requested:

1. Rescission of all investment interests, if applicable;

2. Compensatory damages of \$132,500;
3. Pre-award and post-award interest from the date of the original investments;
4. Cost and expenses of arbitration;
5. Punitive damages;
6. Such further relief as deems proper.

Respondent Titan requested that it be awarded costs and such further relief as deemed proper.

#### ***Other Issues Considered and 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.

Respondents' Motion to Dismiss the Statement of Claim as barred by the Statute of Limitations, made at the hearing, was denied.

#### ***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. Respondent Titan Value/Equities Group, Inc. is liable for and shall pay to Claimants \$52,500 in compensatory damages;
2. Each and every other claim is dismissed;
3. The claim for punitive damages is dismissed;
4. The parties shall each bear their respective attorney's fees;
5. The parties shall each bear their respective costs.

#### ***Other Costs***

None.

#### ***Forum Fees***

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following forum fees

are assessed: The National Association of Securities Dealers, Inc., shall retain the \$750 hearing session deposit previously paid by the claimant. Forum fees are assessed against Claimant for \$1,500, \$750 of which has already been paid, and Respondent Titan for \$1,500, calculated as follows:


Total forum fees assessed	\$3,000
Claimant's assessment	\$1,500
Claimant's balance due	\$ 750
Respondent Titan's assessment	\$1,500

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

***Arbitration Panel***

<b><i>Name</i></b>	<b><i>Public/Industry</i></b>
Frank Smith	Public
Leo Babich	Public
Jeffrey Skogsbergh	Industry

***Concurring Arbitrators' Signatures***

  
\_\_\_\_\_  
Frank Smith

\_\_\_\_\_  
Leo Babich

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Jeffrey Skogsbergh

Served 6/19/95

***Date of Decision:***

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\_\_\_\_\_  
Frank Smith

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*Leo A. Babich*

Leo Babich

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