

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

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In the Matter of the Arbitration Between

Claimant

Harold DeLong

Case 94-01787

Respondents

McLaughlin, Piven, Vogel Securities  
Marcus Nagel

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CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on May 12, 1994, Claimant Harold DeLong, who appeared Pro Se, alleged that Respondents McLaughlin, Piven, Vogel Securities ("McLaughlin") and Marcus Nagel ("Nagel") made misrepresentations to him, made unauthorized transactions and coerced him into an unsuitable investment. Claimant further contended that Respondent Nagel told him that he would lose a great amount of money if he did not sell his Fanny Mae investment and replace it with an investment in Eaton Vance. Claimant contended that he told Respondent Nagel that it was essential that he own an investment such as a Fanny Mae which would give monthly payments of both interest and principal directly into his bank account. Claimant further contended that Respondent Nagel assured him that the Eaton Vance investment would meet his criteria. Claimant alleged that on November 15, 1993 his investment was sold by Respondent Nagel for \$71,857.00, with a loss to his account of \$1,097.51 and the proceeds were used to purchase 6,039.768 shares of the Eaton Vance Gov. Obligation Trust at 12.07 per share, or \$72,900.00. Claimant further alleged that upon his return from Africa in the last week of March 1994, he discovered a series of unauthorized events that took place in his absence. Claimant contended that 363 of his shares were liquidated to make it seem that his investment paid both principal and interest. As a result of the above, Claimant contended that he has suffered damages for which the Respondents should be held liable.

Respondents McLaughlin, Piven, Vogel Securities and Marcus Nagel, through their representative, Ira Cohen, maintained that Claimant

purchased REMIC FNMA 1993-G2 CLT 7.00% ("REMIC") on January 29, 1993 and May 25, 1993 at a total cost of \$77,600.00, for an average price of \$99.44 per \$100.00 with principal return of \$4,224.00 which represented a profit of \$24.00. Respondents further maintained that Claimant sold the remaining balance of REMIC for \$73,813.18 which caused a principal loss of \$694.00. Respondents contended that once REMIC was sold, EVGOX was purchased for a settlement date of November 16, 1993 as authorized by a letter from the Claimant. Respondents further contended that this was the proper move for Claimant to make, as EVGOX has outperformed the REMIC market ever since. Respondents maintained that when the exchange was made, a prospectus was sent to the Claimant and Respondent Nagel thoroughly explained all cashflow distribution and the makeup of that cashflow. As a result of the above, Respondents contended that they should not be held liable in this matter.

#### RELIEF REQUESTED

Claimant Harold DeLong requested \$9,800.00 in actual damages, plus interest.

Respondents McLaughlin, Piven, Vogel Securities and Marcus Nagel requested that the claims of the Claimant be dismissed.

#### AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedures, a single Public Arbitrator, Howard Sommers, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on May 12, 1994 and by the Respondents on August 10, 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 Claimant Harold DeLong against Respondents McLaughlin, Piven, Vogel Securities and Marcus Nagel are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc.

AFFIRMATION

I, **HOWARD SOMMERS**, do hereby affirm upon my oath of arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.

  
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Signature of Arbitrator

DATE OF DECISION: March 6, 1995

STATE OF: NEW YORK

SS:

COUNTY OF: NEW YORK

On this 1 day of MARCH 1995, before me personally appeared, Howard Sommers, to me known and known before me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

  
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ANDREW RUSSELL  
Notary Public, State of New York  
No. 02RU5034752  
Qualified in New York County  
Commission Expires Oct. 17, 1996