

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Robert M. Shydo

94-02209

Name of Respondent

Investors Asset Management, Inc.

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**REPRESENTATION**

For Claimant: Robert M. Shydo ("Shydo"): Phillip J. Snyderburn, Esq. of Snyderburn, Rishoi & Swann, Winter Park, Florida.

For Respondent: Investors Asset Management, Inc. ("IAM"): Wm. Scott Lindsey, Esq. of Lindsey & Williams, P.A. of Tallahassee, Florida.

**CASE INFORMATION**

Statement of Claim filed: 6/8/94.

Claimant's Submission Agreement signed on: 5/31/94.

Respondent. IAM, filed a Statement of Answer filed on: 6/2/95.

Respondent, IAM, did not file a Submission Agreement as required by Sections 12 and 25 of the Code.

**HEARING INFORMATION**

On 1/8/96, in Tampa, Florida a hearing lasting one (1) session was conducted with three arbitrators.

**CASE SUMMARY**

Claimant, Shydo, alleged fraudulent inducement, breach of fiduciary duty, negligence, breach of contract, and violation of the Florida Securities and Investor Protection Act stemming from the 1989 sale of an interest in a proprietary limited partnership that invested in apartment

dwelling units; that the limited partnership had a guaranteed return of 8%; that the investment became worthless in 1994 because the partnership was insolvent.

Respondent, IAM, denied any liability for all counts.

### **RELIEF REQUESTED**

Claimant, Shydo, requested \$20,000.00 in compensatory damages, punitive damages, interest, all other costs of this proceeding, and reasonable attorney's fees.

Respondent, IAM, requested the panel take into account that Respondent was insolvent, hence any proceeding would be meaningless.

### **OTHER ISSUES CONSIDERED & DECIDED**

Respondent, IAM, plead insolvency and did not defend this matter beyond a denial of all counts in the Statement of Claim. Respondent, IAM, did not attend the final hearing in this matter.

The panel finds that Respondent, IAM, was required to sign a Submission Agreement since jurisdiction exists with respect to IAM pursuant to Section 12 of the NASD Code of Arbitration Procedure.

The parties present at the final hearing 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.

### **AWARD**

After considering the pleadings, the testimony and the evidence presented at the hearing and post hearing submissions (if any), the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent, IAM, is found liable, and shall pay to the Claimant \$20,000.00 in compensatory damages, plus interest at the rate of 8% per annum (from 3/8/89 to 1/8/96) in the amount of \$10,975.82 for a total due to the Claimant of \$30,975.82.
2. Respondent, IAM, is found liable and shall also pay to the Claimant the further amount of \$4500.00 for attorney's fees pursuant to Section 517.211, Florida Statutes.
3. Respondent, IAM, is found liable and shall also pay to the Claimant the further amount of \$40,000.00 for punitive damages.

4. Respondent, IAM, is found liable and shall also pay to the Claimant the further amount of \$400.00 for costs in this matter.

**OTHER COSTS**

The parties shall bear all other costs and expenses incurred by them in connection with this proceeding.

**FORUM FEES**

Pursuant to Section 43c of the Code of Arbitration Procedure, the panel has assessed Forum Fees in the amount of \$400.00 (one hearing session X \$400.00).

1. Respondent, IAM, is hereby assessed Forum Fees in the amount of \$400.00, which shall be paid directly to the Claimants.
2. Respondent, IAM, has been assessed and shall pay the Section 45 Surcharge of \$200.00 to the NASD.
3. The NASD shall retain the non-refundable filing fee of \$100.00 paid by the Claimant.
4. The NASD shall retain the hearing session deposit of \$400.00 paid by the Claimant.

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

**Concurring Arbitrators' Signatures**

/s/

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Herbert L. Blume

Chairperson/Public

/s/

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Sheldon L. Barat

Panelist/Public

/s/

\_\_\_\_\_  
George K. Beardsley

Panelist/Industry

March 18, 1996  
Date of Decision: \_\_\_\_\_