

NASD AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Lois M. Wahle

Claimant

and

NASD Arbitration
No. 95-00116

American Investors Company
Cass Candell

Respondent(s)

REPRESENTATION OF PARTIES

Lois M. Wahle ("Claimant") was represented by Morton Levy, Investor Advocates, Emeryville California.

American Investors Company ("Respondent") was represented by David S. Markun, Esq., Zelle & Larson, San Francisco, California.

Cass Candell ("Respondent") was represented by David S. Markun, Esq., Zelle & Larson, San Francisco, California.

CASE INFORMATION

Claimant's Statement of Claim was filed on or about January 9, 1995. Claimant's Submission Agreement was signed on January 5, 1995.

Respondent's American Investors Company and Cass Candell's Statement of Answer was filed on or about April 28, 1995. The Submission Agreement of American Investors Company was signed on September 1, 1995. The Submission Agreement of Cass Candell was signed on February 7, 1996.

HEARING INFORMATION

A pre-hearing conference was held on Friday 2, 1996.

The hearing was held on February 7, 1996, in San Francisco, California for a total of 2 sessions.

CASE SUMMARY

Claimant alleged that the Respondent Candell breached his fiduciary duty to the claimant by fraudulently recommending unsuitable investments. Claimant further alleged that Respondent Candell continued to make misrepresentations and unsuitable representations after the initial purchase. Additionally, Claimant alleged that Respondent American Investors Company (AIC) failed to act on a separate and distinct fiduciary duty to the Claimant and that AIC failed to supervise Candell and is therefore liable for actions and misrepresentations made by him.

Respondent denied the allegations set forth in the Statement of Claim. Respondents specifically alleged that the recommendations were suitable and in accordance with the Claimant's stated objectives and that Claimant was aware of the risks. Respondent's also alleged that the Claimants' account was properly supervised. Additionally, the Respondent's argued that the claims were barred by Section 15 of the Code.

RELIEF REQUESTED

Claimant requested an Order of Rescission and a return of funds invested in the amount of approximately \$40,000. Additionally Claimant requested interest, costs and fees.

Respondents requested that the claims asserted against it be dismissed, or in the alternative denied, in their entirety and that they be awarded all costs and expenses.

OTHER ISSUES CONSIDERED & DECIDED

Upon review of the submissions filed and argument made on behalf of both parties the panel denied Respondents' Motion to Confirm the Section 15 ruling made by the Director of Arbitration.

Respondent Cass Candell filed with the panel a non notarized Submission Agreement. This was accepted by the panel as the respondent is required to submit to arbitration pursuant to §12 of the NASD Code of Arbitration Procedure (the "Code") and having answered the claim, appeared and testified at the hearing and is bound by the determination of the arbitration panel on all issues submitted.

The parties have agreed that a handwritten, signed Award may be entered. The parties have agreed to receive conformed copies of the award while the original remains on file with the NASD.

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. Each and every claim of the claimant is denied;
2. The parties shall each bear their respective attorney's fees;
3. The parties shall each bear their respective costs.

FORUM FEES

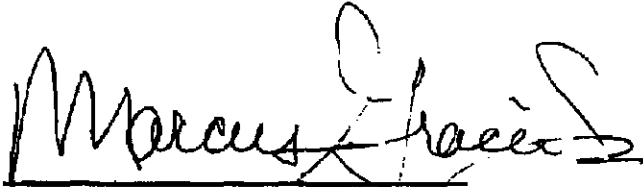
Forum fees are calculated at the rate of \$400 per hearing session and \$300 for each pre hearing conference, if any. There were 2 sessions x \$400 = \$800, and 1 pre-hearing conference session x \$300=\$300. Total forum fees are \$1,100.00. Pursuant to §43(b) of the NASD Code of Arbitration Procedure (the "Code"), a hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with an arbitrator, which lasts four (4) hours or less.

Total Fees	
2 Hearing Sessions @ \$400.00 =	\$ 800.00
1 Pre-hearing session @\$300.00=	<u>\$ 300.00</u>
Total	\$1100.00
Claimant's share	\$1100.00
Claimant's credit for deposit	<u>\$ -0.00-</u>
Claimant's balance	\$1100.00

Pursuant to §43(c) of the Code of Arbitration Procedure, all forum fees are assessed against the Claimant, Lois M. Wahle. No hearing session deposit was received by the Claimant Lois M. Wahle as it was waived preliminarily by the Director of Arbitration. The calculated hearing session amount was \$400 based on the amount of the claim pursuant to §43 of the Code.

Pursuant to §45 of the Code, the NASD shall retain the member surcharge fee in the amount of \$350 previously paid by the Respondent American Investors Company.

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



Marcus Eugene Gracia, Jr.
Public Arbitrator, Presiding Chair

Dated:

2/27/96

Paula Ho-Wolper
Public Arbitrator

Lawrence N. Kummer
Industry Arbitrator

Date served: 4/4/96

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

Dated:

Marcus Eugene Gracia, Jr.
Public Arbitrator, Presiding Chair

Paula Ho Wolper

Paula Ho-Wolper
Public Arbitrator

Lawrence N. Kummer
Industry Arbitrator

2-28-96
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Date served: 4/4/96

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

Dated:

Marcus Eugene Gracia, Jr.
Public Arbitrator, Presiding Chair

Paula Ho-Wolper
Public Arbitrator



Lawrence N. Kummer
Industry Arbitrator

2/24/96

Date served: 4/4/96