

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Bernat Katz

95-00759

Name of Respondents

Met Life Securities, Inc.
John J. Mullin

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on February 13, 1995, Claimant, Bernat Katz, who appeared Pro Se, alleged that Respondents, Met Life Securities, Inc. ("Met") and John J. Mullin ("Mullin"), misrepresented an investment to him. Claimant further alleged that he received a solicitation from Respondent Mullin, a representative of Respondent Met, during August of 1993, and he told Mullin that he was interested in a safe investment with a better return than on a CD. Claimant contended that pursuant to Respondents recommendation he invested \$30,000.00 in the State Street Research Pennsylvania Tax-Free Fund (the "Fund") on October 19, 1993. Claimant further contended that Respondents represented that the fund would earn at least \$150.00 monthly and that he would be able to withdraw his investment at any time for a small fee. Claimant alleged that he earned only \$35.43 for November of 1993, and \$85.31 for December of 1993. Claimant further alleged that the Fund has declined in value and upon sale of the Fund he will incur a penalty of 4%. As a result of the above, Claimant alleged that he has suffered a loss for which the Respondents should be held liable.

Respondent, Met Life Securities, Inc., through its representative and in-house counsel, Edward Baer, Esq., maintained that Claimant received and signed for the prospectus of the Fund which stated that the objective of the Fund is to seek interest income exempt from federal and personal income taxes. Respondent Met further maintained that the prospectus clearly states that there is a contingent deferred sales charge of 5% to 2% which is imposed upon redemption within the first five years following purchase. Respondent Met contended that no promises of future performance were made. As a result of the above, Respondent Met maintained that it should not be held liable.

Respondent, John J. Mullin, who appeared Pro Se, maintained that he reviewed the contingent deferred sales charge with the Claimant prior to his purchase. Respondent Mullin further maintained that all risks were fully explained to the Claimant and he emphasized to the Claimant that no future values were guaranteed. Respondent Mullin contended that he stated that monthly dividends could be expected in the \$80.00 - \$85.00 range, but made no estimate of capital gains. As a result of the above, Respondent Mullin maintained that he should not be held liable.

RELIEF REQUESTED

Claimant, Bernat Katz, requested \$4,000.00 in actual damages.

Respondent, Met Life Securities, Inc., requested that the claims of the Claimant be dismissed.

Respondent, John J. Mullin, requested that the claims of the Claimant be dismissed.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, John R. Crayton, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant, Bernat Katz, on February 8, 1995, and by the Respondent, Met Life Securities, Inc., on May 4, 1995, and by Respondent, John J. Mullin, on April 15, 1995.

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, Bernat Katz, against Respondents, Met Life Securities, Inc. and John J. Mullin, are dismissed in their entirety.
2. The parties shall bear their respective costs. ••
3. The \$125.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant, Bernat Katz, shall be retained by the NASD, Inc.

AFFIRMATION

STATE OF PENNSYLVANIA

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ss:

COUNTY OF BUCKS

I, JOHN R. CRAYTON, do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.

John R. Crayton
Signature of Arbitrator

DATE OF DECISION: November 27, 1995