

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Arlletha P. Kerns

95-00910

Name of Respondents

Terry M. Laymon
Magellan Securities Inc.
Shirley R. Brace

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on February 21, 1995, Claimant Arlletha P. Kerns ("Claimant"), who appeared Pro Se, alleged that Respondent Magellan Securities, Inc. ("Magellan"), through its representatives Respondents Terry M. Laymon ("Laymon"), and Shae R. Brace ("Brace"), sold her Leastec Income Fund V Limited Partnership ("Fund") to her detriment. Claimant further alleged that Brace misrepresented both the intent and ability of the Fund to make interest payments. Claimant contended Brace and Laymon repeatedly assured her that her interest and principal would be repaid yet the value of the Fund continued declining. Claimant further contended that she has not received the return promised and will be penalized 15% should she withdraw from the investment. Claimant alleged that as a result of the above, she has suffered a loss for which the Respondents should be held liable.

Respondents Magellan Securities, Inc., and Terry M. Laymon, who appeared through Terry M. Laymon, maintained that Claimant made the choice to invest in the Fund. Respondents further maintained that Brace met with Claimant 2 or 3 times in early 1989 and discussed investment alternatives and objectives. Respondents contended on March 8, 1989 Claimant was informed about the Fund's characteristics, signed a suitability form, and gave Brace a check for \$10,000.00. Respondents further contended that in 1994 Claimant became dissatisfied with the investment but was fully aware of the Fund's payout of principal and interest. Respondents maintained that in 1989 the Claimant represented her assets as significantly higher than that indicated in her Statement of Claim. Respondents further maintained that as a result of the above, they should not be held liable.

Respondent Shae Brace, who appeared Pro Se, maintained that it was never her intention to place Claimant in an investment that was clearly not defined by her own stated goals. Respondent further maintained that she strongly recommended to Claimant that she invest in an annuity but that Claimant wanted to invest in the Fund. Respondent contended that she regrets Claimant's disappointment in the program. Respondent further contended that as a result of the above, she should not be held liable.

RELIEF REQUESTED

Claimant Arletha P. Kerns, requested \$2,539.49 in actual damages plus interest.

Respondents Terry M. Laymon, Magellan Securities, Inc., and Shae Brace, requested that the claims of the Claimant be dismissed.

AWARD

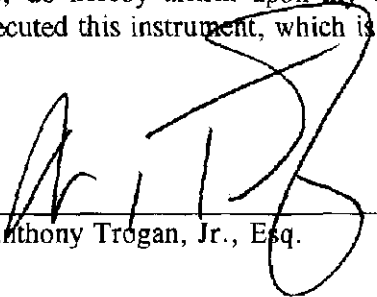
Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Anthony Trogan, Jr., Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on February 17, 1995, and by the Respondent Terry Laymon on April 15, 1995, but not by Respondents Magellan Securities, Inc., and Shae Brace, as is required by Sections 12 and 13 of the NASD Code of Arbitration Procedure.

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 Respondents Terry M. Laymon, Magellan Securities, Inc., and Shae Brace, are jointly and severally liable and shall pay to the Claimant Arletha P. Kerns, \$8,540.00 in actual damages.
2. The Claimant Arletha P. Kerns, upon receiving the actual damages payment, shall assign her interest in the Leastec Income Fund V Limited Partnership to Respondents Terry M. Laymon, Magellan Securities, Inc., and Shae Brace.
3. The parties shall bear their respective costs.
4. The \$75.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc. The Respondents Terry M. Laymon, Magellan Securities, Inc., and Shae Brace, shall pay to the Claimant Arletha P. Kerns, \$75.00 as reimbursement of the filing fee.
5. The Respondents Terry M. Laymon, Magellan Securities, Inc., and Shae Brace, shall pay to the NASD, Inc., \$75.00 for the balance of the filing fee owed in this matter.

AFFIRMATION

I, **ANTHONY TROGAN, JR., ESQ.**, 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.



Anthony Trogan, Jr., Esq.

DATE OF DECISION: March 25, 1996