

NASD AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Name of Claimant

Francine LaPorta

and

95-01059

Name of Respondent

David A. Noyes & Co.
Bruce Parrish

REPRESENTATION OF PARTIES

Francine LaPorta ("**Claimant**") was represented by James J. Eccleston, Esq., Uscian & Eccleston, Chicago, Illinois.

David A. Noyes & Co. ("**Respondent Noyes**") and Bruce Parrish ("**Respondent Parrish**") (collectively as "**Respondents**") were represented by Robert L. Cram, Esq., David A. Noyes & Co., Indianapolis, Indiana.

CASE INFORMATION

The Statement of Claim was filed on or about March 1, 1995. First Amended Statement of Claim was filed on or about August 7, 1995. Submission Agreement of Claimant Francine LaPorta was signed on February 20, 1995.

Statement of Answer was filed by Respondents David A. Noyes & Co. and Bruce Parrish on or about June 12, 1995. Submission Agreement of Respondent David A. Noyes & Co. was signed on June 9, 1995 by Robert L. Cram. Submission Agreement of Respondent Bruce Parrish was signed on April 25, 1995.

HEARING INFORMATION

The hearing was held on November 8, 1995 for one (1) session, November 13, 1995 for two (2) sessions, November 14, 1995 for two (2) sessions, December 19, 1995 for two (2) sessions and December 22, 1995 for two (2) sessions in Chicago, Illinois for a total of nine (9) sessions.

CASE SUMMARY

Claimant alleged that Respondents engaged in negligent conduct in the handling of her IRA and estate accounts. Specifically, Claimant alleged that Respondent Noyes failed to properly supervise Respondent Parrish, who Claimant alleged engaged in excessive trading in unsuitable investments for a 55 year old woman. Claimant also alleged that her investment objective for both accounts was primarily preservation of capital. Claimant alleged that the actions of Respondents constituted violations of the Illinois Securities Act; violations of NASD Rules; violations of rules of the New York Stock Exchange; common law negligence; breach of fiduciary duty; fraud and *respondeat superior* liability.

Respondents denied the allegations set forth in the Statement of Claim. Respondents stated that they acted in compliance with applicable NASD and NYSE rules and regulations and specifically, that Parrish provided the Claimant with all necessary account information, confirms on trades, and investment advice concerning the associated risks of her investments based on available information prior to each trade.

RELIEF REQUESTED

Claimant requested an award in the amount of \$52,441 or alternatively, \$90,021 representing the expected portfolio performance provided for under the Illinois Securities Act. Claimant also sought punitive damages, treble damages, pre-judgment interest at 10% per annum, post-judgment interest at 9% per annum, and reasonable attorneys' fees and expenses.

Respondents requested that the claims asserted against them be dismissed and that they be awarded their costs and attorneys' fees.

OTHER ISSUES CONSIDERED & DECIDED

The parties 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 original(s) remain 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. Respondents, David A. Noyes & Company and Bruce Parrish are jointly and severally liable for, and shall pay to Claimant, Francine LaPorta compensatory damages in the amount of **Nine Thousand Dollars (\$9,000)**;
2. Respondents, David A. Noyes & Company and Bruce Parrish are jointly and severally liable for, and shall pay all forum fees incurred in this arbitration;

3. The panel finds that no fraud existed with respect to the conduct of Respondents, David A. Noyes & Company and Bruce Parrish; and
4. Any other relief not specifically enumerated is hereby denied.

FORUM FEES

Forum fees are calculated at the rate of \$750 per hearing session and \$300 for each prehearing conference, if any. There were nine (9) hearing sessions x \$750 = \$ 6,750 in forum fees. Pursuant to §43(b) 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.

Pursuant to §43(c) of the NASD Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. ("NASD") shall **retain** the non-refundable filing fee in the amount of \$200 and shall **refund** the hearing session deposit in the amount of \$750 previously deposited with the NASD by the Claimant Francine LaPorta.

Respondents, David A. Noyes & Company and Bruce Parrish are jointly and severally liable for, and shall pay to the NASD forum fees in the amount of \$6,750.

Pursuant to §45 of the NASD Code of Arbitration Procedure, the NASD shall **retain** the non-refundable member surcharge in the amount of \$350 paid by Respondent David A. Noyes & Co. **Fees are payable to the National Association of Securities Dealers, Inc.**

Dated:

/s/ John W. Cooley, Esq.

John W. Cooley, Esq.
Public Arbitrator, Presiding Chair

December 27, 1995

/s/ Lee H. Goodman, Esq.

Lee H. Goodman, Esq.
Public Arbitrator

December 28, 1995

/s/ Renan I. Sugarman, Esq.

Renan I. Sugarman, Esq.
Industry Arbitrator

December 27, 1995