

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Naomi Spivey

95-01292

Name of Respondent

Linsco/Private Ledger Corp.

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CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on March 14, 1995, Claimant Naomi Spivey ("Claimant"), through counsel T. David Hasbrook, Esq., of Woska, Hasbrook, Dowd, Underwood & Helms, located in Oklahoma City, OK., alleged that Respondent Linsco/Private Ledger Corp. ("Respondent"), through its registered agent Jack Hughes ("Hughes"), on May 19, 1993, caused Claimant to purchase a \$51,000.00 investment, \$25,500.00 each in the Alliance US Government Bond Fund-Class B, and the Alliance North American Government Income Trust-Class B, to her detriment. Claimant further alleged that Hughes misrepresented to Claimant the specific parameters of the proposed investment, including mandatory holding period and related risks. Claimant contended that Respondent, through agent Michael Mayberry, caused her to purchase to her detriment a \$21,076.44 investment in the Alliance North American Fund on December 15, 1993. Claimant further contended that said investment was not suitable with regard to her ability to bear financial loss and not consistent with her investment objective at conservative growth. Claimant alleged that in September or October, 1994, with the assistance of Prudential Securities Broker M. Patton, she discovered that misrepresentations by Respondent's brokers had been made, and subsequently liquidated the disputed investments. Claimant further alleged that as a result of the above, she has suffered a loss for which the Respondent should be held liable.

Respondent Linsco/Private Ledger Corp., through its representative and in-house counsel, David J. Freniere, Esq., maintained that the disputed investments in the Alliance Funds were suitable for Claimant's expressed investment objective of attaining income greater than that possible with CD's, and due to her financial status. Respondent further maintained that risks associated with disputed investments were fully disclosed in the Customer Acknowledgement signed by Claimant which discusses risks, the lack of coverage by FDIC for Alliance Funds deposits, and the lack of coverage by SIPC for market value declines. Respondent contended that in both the original May, 1993 investment and the subsequent December, 1993 investment, Claimant voluntarily authorized and ratified the investments via signed Customer Acknowledgements. Respondent further contended that Claimant voluntarily authorized and ratified the liquidation of the disputed investments in September/October 1994, even though said investments were still satisfying Claimant's current income objectives. Respondent alleged that as a result of the above, it should not be held liable.

**RELIEF REQUESTED**

Claimant Naomi Spivey, requested \$9,463.78 in actual damages, plus interest, filing fees and attorneys' fees.

Respondent Linsco/Private Ledger Corp., requested that the claims of the Claimant be dismissed in their entirety.

**AWARD**

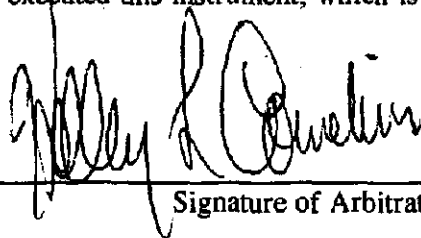
Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Kelly L. Cornelius, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant Naomi Spivey, on March 6, 1995, and by the Respondent Linsco/Private Ledger Corp., on May 11, 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 Naomi Spivey, against the Respondent Linsco/Private Ledger Corp., are denied in its entirety.
2. The parties shall bear their respective costs.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Naomi Spivey, shall be retained by the NASD, Inc.
4. All other relief requests are denied.

**AFFIRMATION**

I, **KELLY L. CORNELIUS, 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.

A handwritten signature in cursive script, appearing to read "Kelly L. Cornelius", is written over a horizontal line.

Signature of Arbitrator

DATE OF DECISION: February 27, 1996