

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Robert Alvin Davis and Polly Allen Davis

95-01498

Name of Respondent

First Union Brokerage Services, Inc.

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on March 24, 1995, Claimants Robert A. Davis and Polly A. Davis ("Claimants"), who appeared Pro Se, alleged that Respondent First Union Brokerage Services, Inc. ("FUBS") did not properly handle their account. Claimants further alleged that during September of 1990, the Respondent recommended that they invest \$50,000.00 in U.S. Treasuries and \$51,500.00 in Alliance Short Term Multi Met Class A Trust ("Alliance") in order to meet their goals of retirement income and preservation of capital. Claimants contended that they were told that there would be little fluctuation in the Alliance investment, but since the investment was made during September 1990, the income has dropped considerably. Claimants further contended that Respondent made no recommendation to change the investment and felt that it would improve. As a result of the above, Claimants alleged that they have suffered a loss for which the Respondent should be held liable.

Respondent First Union Brokerage Services, Inc., through its representative, Elizabeth L. Niles, Esq., of Woods, Rogers & Hazlegrove, P.L.C. in Roanoke, VA, maintained that since the Alliance shares were purchased, they have been held at Alliance upon the request of the Claimants, and not at FUBS. Respondent further maintained that Claimant's stated objectives of income and capital preservation are consistent with Alliance's objectives. Respondent contended that it does not guarantee results on performance, and it never represented such to Claimants. Respondent further contended that it first received Claimants' complaint regarding the Alliance investment in 1995, five years after the purchase, and then told Claimants it would investigate the matter with Alliance. Respondent maintained that Claimants were receiving account statements from Alliance and that they knew the status of their investment. As a result of the above, Respondent maintained that it should not be held liable.

RELIEF REQUESTED

Claimants, Robert A. Davis and Polly A. Davis, requested \$10,000.00 in actual damages.

Respondent, First Union Brokerage Services, Inc., requested that the claims of the Claimant be dismissed.

AWARD

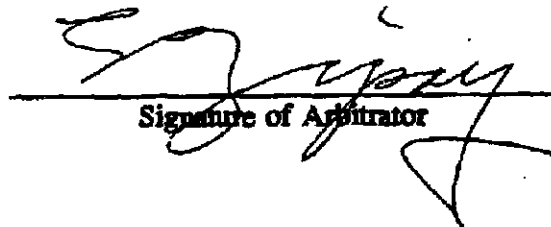
Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Ernestine M. R. Zipoy, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants Robert A. Davis and Polly A. Davis on May 9, 1995 and by the Respondent First Union Brokerage Services, Inc. on August 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 Claimants, Robert A. Davis and Polly A. Davis, against the Respondent, First Union Brokerage Services, Inc. are dismissed in their 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 shall be retained by the NASD, Inc.

AFFIRMATION

I, Ernestine M.R. Zipoy, 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.


Signature of Arbitrator

DATE OF DECISION: November 29, 1995