

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Carol M. Ravenal

95-01629

Name of Respondents

Johnston, Lemon & Co.
Maxwell Elbin

REPRESENTATION

For Claimant Carol M. Ravenal ("Claimant"): Marvin L. Szymkowicz, Esq. of the law firm of Mendelsohn & Szymkowicz

For Respondents Johnston, Lemon & Co. ("Johnston Lemon") and Maxwell Elbin ("Elbin"): Douglas K. Spaulding, Esq. of the law firm of Reed Smith Shaw & McClay

CASE INFORMATION

Statement of Claim filed: April 3, 1995

Claimant's Submission Agreement signed on: March 30, 1995

Joint Statement of Answer filed by Respondents Johnston Lemon and Elbin (collectively referred to as "Respondents") on: August 2, 1995

Respondents did not execute submission agreements.

HEARING INFORMATION

Hearing Dates/Sessions: February 21, 1996 - one sessions
February 22, 1996 - two sessions

Hearing Location: NASD District Office, Washington, DC

CASE SUMMARY

Claimant alleged, among other things, that Elbin recommended unsuitable securities and misrepresented her net worth; and that Johnson Lemon failed to supervise Elbin thereby breaching its fiduciary duty to Claimant. Specifically, Claimant alleged that she purchased six units of Oxford Multiple Equities for Growth and

Appreciation Limited Partnership ("OMEGA") in 1987 and that Respondent Elbin never talked to Claimant about her financial profile and never inquired about her risk tolerance or goals or her financial ability to withstand a high risk limited partnership investment.

Respondents categorically denied all allegations of wrongdoing. Elbin maintained that he contacted Claimant's husband Earl Ravenal (Mr. Ravenal") to see if he was interested in investing in OMEGA and that Mr. Ravenal asked him to stop by Claimant's house and only when he got there did he learn that Claimant was to be the investor. Elbin maintained that he was told by Mr. Ravenal, whose net worth was over \$20 million, that his wife would be making this investment. Elbin alleged that he left an application form with Claimant who filled it out and sent it to him without any follow-up by Respondents, with a statement of net worth which met requirements for investment in OMEGA. Respondents maintained that the matter should not be handled by the NASD because the transaction in question occurred more than six years before the filing of this claim and is barred by Section 15 of the NASD Code of Arbitration Procedure ("Code").

Claimant maintained that her claim is eligible for submission and is not barred by Section 15 of the Code.

RELIEF REQUESTED

Claimants requested rescission of the limited partnerships investments and refund to Claimant of the cash consideration paid in an amount of \$76,285.71; punitive damages in such amounts as the Panel may consider appropriate; interest on any damages awarded from the date of the investment; and costs and reasonable attorneys' fees.

Respondents requested that the Claim be dismissed in its entirety.

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 originals remain on file with the NASD.

The Panel denied Respondents Motion to Dismiss under Section 15 of the Code and decided this case on the merits.

Although Respondents did not file submission agreements, the Panel pursuant to Section 12 of the Code exercised its jurisdiction over

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Respondents. Therefore the Respondents are bound by the rulings in this Award.

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. That the claims against Respondents Elbin and Johnston Lemon are denied in their entirety, including any claim for punitive damages.
2. That all parties shall bear their own costs, including attorney's fees, except as forum fees are reflected below.
3. That any and all claims not specifically addressed are denied.

FORUM FEES

Pursuant to Section 43(c) of the Code, the following Forum Fees are assessed.

3 sessions X \$500 = \$1,500 minus hearing session deposit of \$500 = net \$1,000 due.

Forum fees in the amount of \$1,000 is assessed against Claimant.

Fees are payable to the National Association of Securities Dealers, Inc.

DATE

4/4/96

Concurring Arbitrators' Signatures

Robert O. Harris
Robert O. Harris, Chairperson
Public Arbitrator

Edgar T. Bellinger
Edgar T. Bellinger, Panelist
Public Arbitrator

Gordon F. Linke
Gordon F. Linke, Panelist
Industry Arbitrator

Date Award Served by the NASD:

April 8, 1996

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