

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Michael and Kristopher Deapen

95-01710

Name of Respondents

New England Securities Corp.
Stanley Walters

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on April 6, 1995, Claimants Michael and Kristopher Deapen ("Claimants"), through their representative and counsel, Robert M. Roth, Esq., of R.M. Roth & Associates, located in Appleton, WI, alleged that Respondents New England Securities Corp. ("NES") and Stanley Walters ("Walters"), recommended that they purchase Franklin Utilities Fund, Income Fund of America, Investment Co. of America, Value Fund, New England International Equiry and New England Capital Growth (the "Funds"), which they followed to their detriment. Claimants further alleged that they asked Walters to recommend investments which were non-risk, income producing and liquid, and that the Funds carried a degree of risk that was not appropriate for their situation. Claimants contended that they instructed Walters to open the account at NES in the name of their corporation, Arizona Fax Superstore, which was not followed and instead Walters put the account in their names. Claimants further contended that their account was placed on margin, a concept that they did not fully understand. Claimants alleged that as a result of the above, they have suffered a loss for which the Respondents should be held liable.

Respondents New England Securities Corp. and Stanley Walters, through their representative and counsel, John T. Golbert, Esq., of Warner & Alvarez, Corp., located in Phoenix, AZ, maintained that Walters explained to the Claimants a detailed explanation of mutual funds, margin accounts and the risks associated therewith. Respondents further maintained that the Claimants never disclosed that the Funds were corporate funds, therefore, the accounts forms were completed accordingly. Respondents contended that the Funds met the Claimants' investment objectives of preserving capital and capital appreciation. Respondents further contended that the margin account was properly opened and that Claimants ratified the account by its continued use. Respondents maintained that as a result of the above, they should not be held liable.

RELIEF REQUESTED

Claimants Michael and Kristopher Deapen, requested \$10,000.00 in actual damages, plus interest, costs and attorney's fees.

Respondents New England Securities Corp. and Stanley Walters, requested that the claims of the Claimants be dismissed.

AWARD

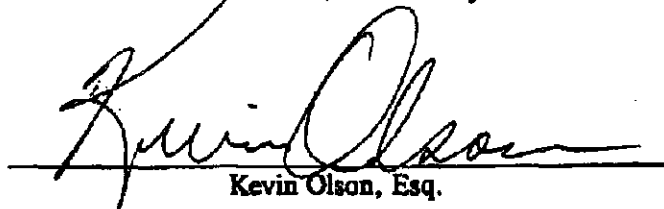
Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Kevin Olson, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants Michael and Kristopher Deapen, on March 17, 1995, and not by the Respondents New England Securities Corp. and Stanley Walters, as 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 claims of the Claimants Michael and Kristopher Deapen, against Respondents New England Securities Corp. and Stanley Walters, are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. All other relief requests are denied.
4. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants Michael and Kristopher Deapen, shall be retained by the NASD, Inc.

AFFIRMATION

I, **KEVIN OLSON, 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.


Kevin Olson, Esq.

DATE OF DECISION: October 31, 1995