

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Melba and Dwight Talley

95-01784

Name of Respondent

Robert Thomas Securities, Inc.

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on April 11, 1995, Claimants, Melba and Dwight Talley, who appeared Pro Se, alleged that Respondent, Robert Thomas Securities, Inc., sold them unsuitable securities and misrepresented the risk of those securities. Claimants further alleged that they met with Susan McEllen ("McEllen"), a representative of Respondent who recommended that they invest in the Alliance Short Term Multi Market Trust ("Alliance"). Claimants contended that McEllen did not mention anything about the risk of Alliance. Claimants further contended that pursuant to McEllen's recommendation they invested \$20,000.00 in Alliance. Claimants alleged that their investment lost value and was eventually sold at a loss. Claimants further alleged that they later found out that some of their money was "invested in Mexico". As a result of the above, Claimants alleged that they have suffered a loss for which Respondent should be held liable.

Respondent, Robert Thomas Securities, Inc., through its representative and in-house counsel, John N. Critchlow, Esq., located in St. Petersburg, FL, maintained that McEllen met with the Claimants twice before deciding to invest in Alliance and after the first meeting Claimants received a copy of the prospectus. Respondent further maintained that the risks and rewards of Alliance were discussed and Claimants were aware at the time of their purchase that the value of Alliance could decline. Respondent contended that Claimants made an informed decision, selecting an investment that met their objectives of income. As a result of the above, Respondent maintained that it should not be held liable.

RELIEF REQUESTED

Claimants, Melba and Dwight Talley, requested \$5,000.00 in actual damages.

Respondent, Robert Thomas Securities, Inc., 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, Russell P. Shomler, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants, Melba and Dwight Talley, on May 17, 1995, and by the Respondent, Robert Thomas Securities, Inc., on August 7, 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, Melba and Dwight Talley, against Respondent, Robert Thomas Securities, Inc., are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. The \$125.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants, Melba and Dwight Talley, shall be retained by the NASD, Inc.

AFFIRMATION

I, **RUSSELL P. SHOMLER**, 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.


Russell P. Shomler

DATE OF DECISION: December 19, 1995