

**N.A.S.D. AWARD**

**NATIONAL ASSOCIATION OF SECURITIES DEALERS**

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In the Matter of the Arbitration Between

**Name of Claimant**

Burton P. Sauer as Trustee for the  
Burton P. Sauer Revocable Trust

95-01814

**Name of Respondents**

Carl C. Roba  
Emmett A. Larkin & Co., Inc.  
Melinda L. Jonopulos

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**CASE SUMMARY**

In a claim filed with the National Association of Securities Dealers, Inc. on April 17, 1995 Claimant Burton P. Sauer Revocable Trust, represented by Burton P. Sauer, who appeared Pro Se, alleged that Respondents Carl C. Roba ("Roba"), Emmett A. Larkin & Co., Inc. ("EAL"), sold him a long-term Federal Home Loan Mortgage Corp. Bond ("Bond") at a lower than expected interest rate after he had indicated he was not interested in long-term issues because he was 70 years old. Claimant further alleged that upon a request for written documentation on the Bond Roba sent him handwritten materials indicating Roba's assessment of the Bond was "My personal investment expertise allows me to make recommendations that are suitable to meet your specific needs." Claimant contended that Roba stated he would receive \$333.00 a month in principal combined with a \$25.00 interest payment. Claimant further contended that Jonopulos actively concealed the true nature of the investment while acting on behalf of EAL and, that as a result of the above, the Respondents should be held liable.

Respondent Carl C. Roba, who appeared Pro Se, maintained that Claimant contacted him about FNMA, GNMA and FHLMC bonds as advertised on the financial channel in Los Angeles. Respondent further maintained that he discussed mortgage backed securities and recommended FHLMC government mortgage bond with a 7.5% coupon, maturing 4/25/24 which at the time had a 2.4 year average life to the Bond. Respondent contended that Claimant accepted monthly payments on interest and principal and never complained. Respondent further contended that he never misrepresented the investment and that the Claimant only filed the arbitration because he later became unhappy with the investment. Respondent maintained that as a result of the above, he should not be held liable.

Respondent Melinda L. Jonopulos, who appeared Pro Se, maintained that she responded to a letter from Claimant to EAL regarding his account with Southern California Securities. Respondent further maintained that she responded to the portion relative to the interest and principal due on the Federal Home Loan position held in his account. Respondent contended that she exercised reasonable care and did not have knowledge of any of the facts or transactions set forth by the Claimant. Respondent further contended that as a result of the above, she should not be held liable in this matter.

Respondent Emmett A. Larkin & Co., Inc., through its representative, Melvin L. Peterson, maintained that it operated in the capacity as the clearing broker for Southern California Securities, Inc. ("SCS"), and Morley Securities, Inc. ("MS"). Respondent further maintained that it did not participate in any investment decisions and was aware of any transactions only after they occurred. Respondent contended that it only took possession and paid interest on any asset after SCS completed the transaction. Respondent further contended that any of its actions were justified, excused and privileged and as a result of the above, it should not be held liable.

#### **RELIEF REQUESTED**

Claimant Burton P. Sauer as Trustee for the Burton P. Sauer Revocable Trust, requested \$10,000.00 and that the Respondents take back the Bond, or in the alternative, he requested \$1,200.00 in actual damages.

Respondent Carl C. Roba, requested that the claims of the Claimant be dismissed.

Respondent Melinda L. Jonopulos, requested that the claims of the Claimant be dismissed.

Respondent Emmett A. Larkin & Co., Inc., requested that the claims of the Claimant be dismissed.

#### **OTHER ISSUES CONSIDERED AND DECIDED**

The arbitrator, after having reviewed and considered all documentation regarding the Counter Claim filed by Respondent Carl C. Roba against Claimant Burton P. Sauer as Trustee for the Burton P. Sauer Revocable Trust, declined to entertain the Counter Claim for failure to pay the \$575.00 filing fee as required by the NASD Code of Arbitration Procedure.

#### **AWARD**

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, George Hubner, was selected to review the matter in controversy between the parties

set forth in submissions to Arbitration signed by the Claimant Burton P. Sauer as Trustee for the Burton P. Sauer Revocable Trust, on April 10, 1995 and by the Respondent Emmett A. Larkin on July 7, 1995, by Respondent Melinda L. Jonopulos, on July 31, 1995, but not by Respondent Carl C. Roba as required by Sections 12 and 13 of the NASD Code of Arbitration Procedure.

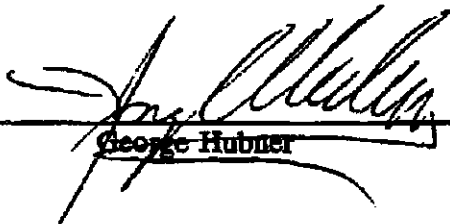
And, the Arbitrator, having considered the proof of the parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. The Respondent Carl C. Roba, is liable and shall pay to the Claimant Burton P. Sauer as Trustee for the Burton P. Sauer Revocable Trust, \$10,000.00 in actual damages.
2. The Claimant Burton P. Sauer as Trustee for the Burton P. Sauer Revocable Trust, shall convey the Bond in question to Carl C. Roba after settlement of this award has been made.
3. The Respondent Carl C. Roba, is liable and shall pay to the Claimant Burton P. Sauer as Trustee for the Burton P. Sauer Revocable Trust, interest at the rate of 7 1/2% on the amount of \$9,423.00 from July 25, 1995 until date of payment of the award.
4. The claims of the Claimant Burton P. Sauer as Trustee for the Burton P. Sauer Revocable Trust, against Respondent Emmett A. Larkin & Co., Inc. are dismissed in their entirety.
5. The claims of the Claimant Burton P. Sauer as Trustee for the Burton P. Sauer Revocable Trust, against Melinda L. Jonopulos, are dismissed in their entirety.
6. The parties shall bear their respective costs.
7. All other relief requests are denied.
8. The \$50.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Burton P. Sauer as Trustee for the Burton P. Sauer Revocable Trust, shall be retained by the NASD, Inc.

Page Four  
Award 95-01814

**AFFIRMATION**

I, GEORGE HUBNER, 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.

  
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George Hubner

DATE OF DECISION: November 2, 1995