

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Hilda Downs Powell

- 95-03249

Name of Respondents

Sunpoint Securities Inc.

REPRESENTATION

Claimant Hilda Downs Powell ("Claimant") was represented by Mark Rollinson, Esq., Leesburg, VA

Respondent Sunpoint Securities, Inc. ("Respondent") was represented by Fredrick C. Summers, III, Esq., Dallas TX

CASE INFORMATION

The Statement of Claim was filed July 6, 1995
Claimant's Submission Agreement was signed on June 27, 1995

The Statement of Answer was filed on September 1, 1995
Respondent's Submission Agreement was signed on September 5, 1995

HEARING INFORMATION

Hearing Date/Sessions: March 20, 1996/one session

Hearing Location: NASD, Inc.
Washington, DC

CASE SUMMARY

Claimant alleged, among other things, that she is a seventy three (73) year old housewife whose education ceased at high school and whose life work, before retirement, was as a janitor for a public school system. Claimant alleged that, without authorization, Respondent liquidated Claimant's entire portfolio of securities which Claimant had inherited from her uncle. Claimant alleged that Respondent used the proceeds from liquidating Claimant's account to purchase securities such as an illiquid partnership, Samson Financial Group, Inc., Residential Mortgage Fund Series 93-2, and shares in Conquest, Crop Genetics, Helionetics and Nextel. Claimant alleged that the highly risky securities were unauthorized and totally unsuitable for Claimant. Claimant alleged that

Claimant opened an account with Respondent when she inherited the securities. Claimant alleged that she is an unsophisticated investor who had no investing experience prior to inheriting the securities from her uncle. Claimant alleged that Respondent failed to properly supervise its registered representative, Gregory A. Andrews. Claimant alleged that Respondent engaged in unauthorized transactions in Claimant's account solely for the benefit of Andrews and Respondent. Claimant alleged that Respondent violated NASD Rules of Fair Practice as well as NASD Guidelines for Fair Dealing with Customers. Claimant alleged that Respondent should be held liable for the damages they caused to Claimant.

Respondent denied all allegations of wrong doing. Respondent maintained that Claimant represented that she was an experienced investor with a networth of \$175,000 when Claimant opened her account with Respondent. Respondent maintained that Claimant expressed her investment objectives as income, capital preservation, business risks, trading (short term), capital appreciation (long term) and high risk speculation. Respondent maintained that all investments in Claimant's account were made with Claimant's full knowledge and authority. Respondent maintained that Claimant promptly received written confirmation of each transaction. Respondent maintained that Claimant made no objection to any of the transactions nor did Claimant state that any of the transactions were unauthorized. Respondent maintained that any losses suffered by Claimant were a result of Claimant's own investment decisions and market conditions.

RELIEF REQUESTED

Claimant requested damages in the amount of \$51,700.00; interest thereon; \$100,000.00 in punitive damages; and all costs attributed to this arbitration including attorney's fees in the amount of \$57,000.00 in exchange for the relevant assets in Claimant's portfolio.

Respondent requested that the Statement of Claim be denied and all costs attributed to this arbitration, including reasonable attorney's fees, be assessed to Claimant.

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 original remain on file with the NASD.

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. Respondent, as the party responsible for the supervision of the registered representative, Gregory A. Andrews and a recipient of financial gain as a result of Mr. Andrews' dealings with Claimant, is liable to and shall pay to Claimant the sum of \$20,000.00. Upon receipt of the \$20,000.00, Claimant shall forthwith tender to Respondent, Claimant's assets in Samson Financial Group, Inc., Residential Mortgage Fund Series 93-2.
2. Respondent, as the party responsible for the supervision of the registered representative, Gregory A. Andrews and a recipient of financial gain as a result of Mr. Andrews' dealings with Claimant, is liable to and shall pay to Claimant the sum of \$19,000.00, inclusive of interest.
3. The request for punitive damages is denied.
4. Pursuant to VA. Code Annon. Section 13.1-522(A), Respondent, as the party responsible for the misrepresentations and omissions of the registered representative, Gregory A. Andrews, is liable to and shall pay to Claimant the sum of \$13,000.00 for attorney's fees.
5. Each party shall bear its own costs and expenses except as specifically addressed herein.
6. Any and all relief not specifically addressed herein is denied.

FORUM FEES

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


1 session X \$750.00 = \$750.00

Forum Fees assessed against both Claimant and Respondent in equal shares. Claimant is to receive credit for the \$750.00 hearing session deposit Claimant previously submitted to the NASD. Therefore, Respondent is liable to and shall reimburse Claimant for \$375.00 or one-half (1/2) of \$750.00.

Date

Concurring Arbitrators' Signatures

3/21/96



Eugene I. Goldman, Presiding
Public Arbitrator

Janet Stern Solomon
Public Arbitrator

Gordon F. Linke
Industry Arbitrator

Date Decision Served by NASD: March 22, 1996

Date

Concurring Arbitrators' Signatures

Eugene I. Goldman, Presiding
Public Arbitrator

3-21-96

Janet Stern Solomon
Janet Stern Solomon
Public Arbitrator

Gordon F. Linke
Industry Arbitrator

Date Decision Served by NASD: March 22, 1996


Date

Concurring Arbitrators' Signatures

Eugene I. Goldman, Presiding
Public Arbitrator

Janet Stern Solomon
Public Arbitrator

3/21/96


Gordon F. Linke
Industry Arbitrator

Date Decision Served by NASD: March 22, 1996