

972 16060041
N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

George D. and Jane T. Reilly

9503328

© National Association of
Securities Dealers, Inc.

Name of Respondent

Alan R. Leist Planning Group, Inc.

All Rights Reserved

REF'RESENTATION

The Claimants appeared Pro Se.

For Respondent appeared Alan R. Leist of Alan R. Leist Planning Group, Inc., Utica, New York.

CASE INFORMATION

The Statement of Claim was filed on July 10, 1995. Claimants' Submission Agreement was signed on July 7, 1995.

The Statement of Answer was filed by Respondent on August 11, 1995. Respondent's Submission Agreement was signed on August 9, 1995.

HEARING INFORMATION

Hearing Date/Sessions: April 16, 1996 - One Session

The hearing was held at the Best Western Hotel located in Albany, New York.

CASE SUMMARY

Claimants alleged that due to the mismanagement of their account by Respondent, they suffered unnecessary and excessive tax consequences. Claimants further alleged that they had requested that Respondent estimate taxes before selling their United Group of Mutual Funds and that the tax was estimated at \$403.00. Claimants also alleged that upon sale of the mutual funds, their statement reflected tax in the amount of \$1,384.59 and that had Claimants received the proper estimate, they would not have agreed to the sale. • Further, Claimants alleged that on several occasions they and Respondent discussed a cash flow withdrawal from their personal investment savings and that Claimants' accountant also sent Respondent a letter advising the same. Claimants also alleged that for nine months they received money

9606041

from their IRA savings instead of their personal investment savings as requested and that as a result they suffered a \$2002.00 tax consequence.

Respondent maintained that any inaccuracy in the projection of tax consequences of Claimants' sale of their mutual funds was a direct result of Claimants' failure to provide accurate cost information and that in no way was it caused by Respondent's failure to perform properly. Respondent further maintained that Claimants received IRA withdrawals for approximately six months despite its repeated efforts to persuade Claimants to eliminate the IRA withdrawals in favor of withdrawals from their personal investment accounts. Respondent also maintained that Claimants failed to pursue its recommendations and that at any time they could have discontinued the IRA withdrawals had that been their intent. Further, Respondent maintained that at all times it was diligent in providing Claimants with sound investment advice which they, for their own purposes, chose to disregard.

RELIEF REQUESTED

Claimants requested damages in the amount of \$5,000.00. as direct enumeration for the loss allegedly sustained, plus accountant fees sustained as well as the claimants' time.

Respondent requested a dismissal of the Statement of Claim.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that a handwritten, signed Award may be entered. In this case, the parties have agreed to receive a conformed copy of the Award while the original remains on file with the NASD.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. All claims against Respondent Alan R. Leist Planning Group, Inc. be and hereby are dismissed with prejudice.
2. Claimants request for accountant fees be and hereby is denied.
3. Each party shall bear their respective costs.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the arbitrator has determined that the NASD shall retain the \$50.00 non-refundable filing fee and \$100.00 hearing session deposit submitted by Claimant.

9606041

Page Three
Award #95-03328

ARBITRATOR'S SIGNATURE

Lorraine I. Remo
Lorraine I. Remo, Esq.
Public Arbitrator

I, Lorraine I. Remo, Esq., do hereby affirm pursuant to Article 7507 of the Civil Practice Law & Rules, that this is my decision in the above-captioned matter.

Lorraine I. Remo
Lorraine I. Remo, Esq.

Date of Decision. June 14, 1996