

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Jay B. and Roxane E. Adams

95-03883

Name of Respondent(s)

Summit Investment Corp.

Ann Exline Starr

John Daly Hurd

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on August 11, 1995, Claimants Jay B. and Roxane E. Adams, who appeared Pro Se, alleged that Respondent Summit Investment Corp., through its registered representative Don Nemer, liquidated without their consent their IRA accounts, which were made up of bonds. The Claimants alleged that these IRA accounts were merely to be transferred, but instead the Respondents liquidated the bonds and purchased several mutual funds with the proceeds. The Claimants contended that at no time did they give Respondents permission to liquidate their IRA accounts, and that when they discovered the problem, they informed the Respondents that they wanted to be made whole and to transfer the accounts to Merrill Lynch. The Claimants further contended that Respondents Ann Exline Starr and John Daly Hurd were to correct the account, but when the positions were transferred to Merrill Lynch, only their cash was transferred, not their original positions in the IRA accounts. Claimants Jay B. and Roxane E. Adams asserted that due to the wrongdoing of the Respondents, they have suffered damages, for which the Respondents should be held liable.

Respondents Summit Investment Corp. ("Summit"), John Daly Hurd and Ann Exline Starr, through their representative and in-house counsel, Joseph D. Fleming, Esq., in their Answer and amended Answer maintained that the Claimants were notified of the bond transactions in their IRA accounts and were later notified that the bonds had not been canceled, and the Claimants made no complaint in response to the information sent to them. The Respondents also maintained that Claimants never asked that the bond positions be reversed, and further that Summit investigated the matter and determined there was no merit. The Respondents further maintained that the Claimants cannot make a claim for unauthorized trading and not include their broker/brother-in-law, Don Nemer. The Respondents contended that they committed no wrongdoing; therefore the claims against them should be dismissed.

RELIEF REQUESTED

Claimants Jay B and Roxane E. Adams, requested \$8,187.50 in actual damages, plus \$450.31 in market interest, \$1,095.00 in loss on commissions and costs of \$225.00.

Respondents Summit Investment Corp., Ann Exline Starr and John Daly Hurd, requested that the claims of the Claimant be dismissed.

AWARD

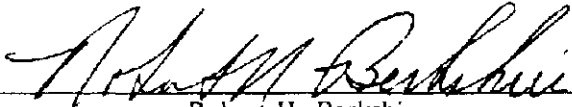
Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Robert H. Berkshire, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on August 5, 1995, by Respondent Ann Exline Starr on April 26, 1996, and by the Respondents Summit Investment Corp., and John Daly Hurd in April of 1996.

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. Respondent Summit Investment corp. is liable and shall pay to the Claimants Jay B. and Roxane E. Adams. \$5,000.00 in actual damages.
2. The Claims of the Claimants against the Respondents Ann Exline Starr and John Daly Hurd are dismissed in their entirety.
3. The parties shall bear their respective costs.
4. All other requests for relief are denied.
5. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc. Respondent Summit Investment Corp. is liable and shall pay to the Claimants \$75.00 as reimbursement of one-half of the filing fee.

AFFIRMATION

I, **ROBERT H. BERKSHIRE**, 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.


Robert H. Berkshire

DATE OF DECISION: May 21, 1996