

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Sharad D. Regay Trust

95-03961

Name of Respondent(s)

David Lerner Associates
Louis Liberatore

REPRESENTATION

The Claimant Sharad D. Regay ("Claimant") appeared Pro Se.

For Respondents David Lerner Associates Inc. ("DLA") and Louis Liberatore ("Liberatore"), collectively ("Respondents"), appeared Ruthann G. Niosi Esq., a sole practitioner located in New York, New York.

CASE INFORMATION

Statement of Claim filed: August 9, 1995.

Claimant's Submission Agreement signed on: August 23, 1995.

Joint Statement of Answer filed by Respondents on: October 20, 1995

Respondent DLA's Submission Agreement signed on: November 11, 1995.

Respondent Liberatore's Submission Agreement signed on: November 20, 1995.

HEARING INFORMATION

Hearing Dates/Sessions: June 4, 1996 - One Session

The hearing was held at the City Midday Club located in New York, New York.

CASE SUMMARY

Claimant alleged that on January 27, 1995, Liberatore, a DLA representative, told Claimant that Mr. Trudden, Claimant's previous representative, was wrong for putting Claimant in the Vista Growth Fund ("Vista") investments because they would place all of his retirement money at risk and that Mr. Trudden had done this to many other people. Claimant further alleged that he informed Liberatore that he had purchased Vista at net asset value ("NAV") directly from Chase Manhattan Bank. Claimant also alleged that Liberatore told him that at his age he should be in U.S. Government Securities ("U.S.G.S.") which would guarantee him 8.5% annually and preserve his capital, and that U.S.G.S., at an interest rate of 8.5%, on about \$130,000.00, would give him a return of \$11,000.00 annually. Claimant asserted that Liberatore told him that he was going to buy U.S.G.S. for him, however, Liberatore did not give Claimant a prospectus or any information as to the risks or cost of the investment.

Claimant further asserted that he attempted, without success, to contact Liberatore and then he called a Vista representative at Chase Manhattan and instructed him to not to proceed with the sale of the Vista Growth Funds which Liberatore had suggested in order to purchase the U.S.G.S. Claimant also asserted that after checking his account, the Vista representative told him that the fund was in a DLA account and he would have to speak to his DLA representative. Claimant asserted that he again called Liberatore, and instructed him not to sell his Vista stocks and furthermore, that he was not interested in Liberatore's proposal, however, Liberatore insisted that the securities were already purchased and that what he did was right. Claimant contended that Liberatore came to his house on February 7, 1995 to "explain everything" to Claimant. Claimant further contended that Liberatore was in such a hurry to put this transaction through that he had to correct it three times and that Liberatore was unaware of the available funds indicated by an error of over \$10,000.00.

Claimant also contended that he reported this matter to the compliance division of DLA on February 27, 1995 and finally he received a letter the week of April 6, 1995 from Mr. Chafetz ("Chafetz"), Vice President of Compliance for DLA who attempted to justify all of Liberatore's unethical misconduct on the basis of Liberatore's statements alone. Claimant alleged that he never gave verbal or written consent authorizing the sale of Vista Funds, and furthermore, he never authorized Chase Manhattan Bank to transfer his funds to DLA.

Respondents denied all allegations in the Statement of Claim. Respondents further maintained that beginning on or about August 4, 1994 Claimant met with Liberatore three times to discuss and review the investments he had at DLA. Respondents also maintained that Regay was satisfied with his account which held a Collateralized Mortgage Obligation ("CMO") investment which had been purchased by Claimant and his wife several years prior and therefore, Liberatore presented Regay with another CMO. Respondents contended that Liberatore told Claimant that this CMO had a yield to maturity of 8.49% and an average life of 8.36 at a price of 100.75 and that Liberatore told Regay that if he so desires, he could invest the interest he received into Vista

and therefore enhance the possibility of appreciation by being in two vehicles. Respondents further contended that Regay approved the CMO purchase, and furthermore Regay called DLA and inquired as to whether there were any more available for his wife to purchase, and that he was disappointed when he was advised that DLA was out of inventory at the time. Respondents maintained that Regay received three confirmations because various information was reported to him.

RELIEF REQUESTED

Claimant requested \$20,451.24 plus interest.

Respondents requested that all claims against them be dismissed in their entirety.

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 originals 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. All Claims against Respondents be and hereby are dismissed.
2. Each party shall bear their own costs, including attorney's fees.
3. Claimant Sharad D. Regay be and hereby is liable for the forum fees assessed.
4. All other claims be and hereby are denied.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the arbitrators have determined that the NASD shall retain the \$100.00 non-refundable filing fee previously deposited by Claimant and have assessed the following forum fees:

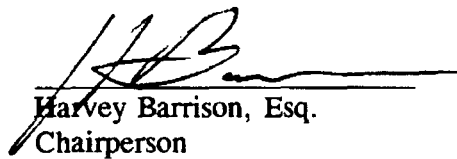
1 Session x \$300.00 = \$300.00

Claimant be and hereby liable for the sum of \$300.00 representing the total amount of forum fees assessed. Claimant previously deposited \$300.00 with the NASD. Therefore, nothing is owed to the NASD by the Claimant.

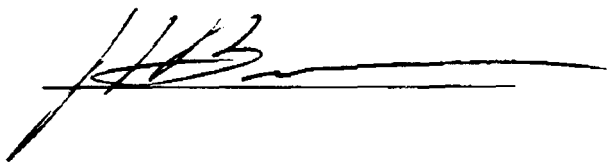
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Fees are payable to the National Association of Securities Dealers, Inc.

ARBITRATORS' SIGNATURES


Harvey Barrison, Esq.
Chairperson

I, Harvey Barrison, Esq., do hereby affirm that this is my decision in the above-captioned matter.



Date of Decision: 6/24/96