

362
9605053
N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

© National Association of
Securities Dealers, Inc.

In the Matter of the Arbitration Between

All Rights Reserved

Name of Claimant

Maria Joaquin

9504827

Name of Respondents

Bank of America NT & SA
Salim Kimiagar
BA Investment Services, Inc.

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on October 12, 1995, Claimant Maria Joaquin, who appeared Pro Se, alleged that Respondent Salim Kimiagar of the Respondent firm BA Investment Services, Inc., a Subsidiary of Bank of America NT & SA, convinced her not to purchase a Certificate of Deposit, and instead recommended she invest her funds in a Mutual Fund investment. The Claimant contended that Respondents misrepresented the safety and profitability of a Mutual fund and further that this investment was not suitable or in accordance with her needs. Claimant contended she has suffered damages due to the Respondents' wrongdoing, for which they should be held liable.

Respondents Bank of America NT & SA, Salim Kimiagar, and BA Investment Services, Inc., through their in-house counsel, Gabriel Colorado, Esq., maintained that the Claimant was fully aware of the risks associated with her investment in Pacific Horizon California Tax-Exempt Bond Fund, and further that she was told, and she acknowledged that the value of the fund was subject to fluctuations. The Respondents also maintained that Claimant received a prospectus regarding the investment, and she was never promised or guaranteed she would not lose money. The Respondents contended that Claimant knowingly and voluntarily assumed the risks of this investment, that they committed no wrongdoing, and that they should not be held liable in this matter.

RELIEF REQUESTED

Claimant Maria Joaquin, requested \$6,539.66 in actual damages, plus interest and costs,

Respondents Bank of America NT & SA, Salim Kimiagar, and BA Investment Services, Inc., requested that the claims of the Claimant be dismissed, and that they be awarded costs and attorneys' fees.

91605053

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Margaret Kallman, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant Maria Joaquin, on August 18, 1995, and by the Respondent Bank of America NT & SA, on December 19, 1995, by Respondent Salim Kimiagar, on December 16, 1995, and by Respondent BA Investment Services, Inc., on December 18, 1995.

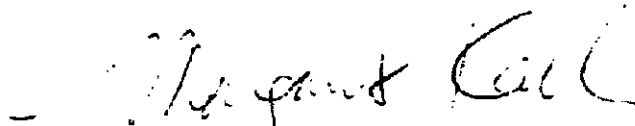
And, the Arbitrator, having considered the proof of the parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Respondents Bank of America NT & SA and BA Investment Services, Inc. are jointly and severally liable, and shall pay to the Claimant Maria Joaquin, \$6,180.51 in actual damages.
2. The claims of the Claimant Maria Joaquin against the Respondent Salim Kimiagar are dismissed in their entirety.
3. Respondents Bank of America NT & SA are jointly and severally liable, and shall pay to the Claimant Maria Joaquin, simple interest at the rate of 7% per annum from October 27, 1993 to the date of payment of the award.
4. The parties shall bear their respective costs.
5. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Maria Joaquin, shall be retained by the NASD, Inc. Respondents Bank of America NT & SA and BA Investment Services, Inc. are jointly and severally liable, and shall pay \$150.00 to the Claimant Maria Joaquin, as reimbursement of the filing fee.

9/605D53

AFFIRMATION

I, MARGARET KALLMAN, ESQ., 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.



MARGARET KALLMAN, ESQ.

DATE OF DECISION: May 24, 1996