

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the matter of the Arbitration Between

Name of Claimants

John R. Adler, Jill W. Adler and the Adler Family Revocable Trust
dated March 7, 1986

v.

NASD Arbitration
No.95-04841

Name of Respondents

John Fromm and Sunpoint Securities, Inc.

REPRESENTATION

For Claimants:

Robert M. Weinberger, Esq.
Cohen, Chernay, Norris, Weinberger & Harris
North Palm Beach, Florida

For Respondent Sunpoint Securities Inc.:

Frederick C. Summers, III, Esq.
Dallas, Texas

For Respondent John Fromm:

no appearance

CASE INFORMATION

Statement of Claim filed:

October 13, 1995

Claimants' Submission Agreement signed:

September 5, 1995

Statement of Answer filed by Respondent
Sunpoint Securities, Inc.:

December 7, 1995

First Amended Statement of Answer filed by
Respondent Sunpoint Securities, Inc.:

April 22, 1995

Respondent Sunpoint Securities, Inc.'s
Submission Agreement signed:

December 7, 1995

HEARING INFORMATION

Pre-Hearing Conference Date / Session: August 8, 1996 (1 Session)
Hearing Dates / Sessions: November 8, 1996 (2 Sessions)
Hearing Location: Los Angeles, California

CASE SUMMARY

Claimants alleged that Respondent failed to exercise due diligence and recommended an unsuitable investment in the selection of the Continental Income Fund II, a Nevada limited partnership formed in 1992. Claimant further alleged that Respondent breached a fiduciary duty owed to Claimants.

Respondent Sunpoint Securities, Inc. denied the allegations of wrongdoing found in the Claimants' Statement of Claim.

RELIEF REQUESTED

Claimants requested compensatory damages of at least \$30,000.00, and punitive damages.

Respondent Sunpoint Securities, Inc. requested that the Claimants take nothing by reason of their Statement of Claim and that Sunpoint be awarded attorneys fees and costs.

OTHER ISSUES CONSIDERED AND DECIDED

The parties entered into a stipulation to amend the Claimants' Statement of Claim to add the Adler Family Revocable Trust Dated March 7, 1986 as a Claimant in this matter. The stipulation was accepted by the arbitration panel.

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 of the Claimants' claims, including the claim for punitive damage, are denied in their entirety.
2. The parties shall each bear their respective costs, including attorneys fees.

FORUM FEES

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

| | | |
|---|---|------------------|
| One Pre-Hearing Conference session @ \$300.00/Session | = | \$ 300.00 |
| <u>Two Hearing Sessions @ \$400.00/Session</u> | = | <u>\$ 800.00</u> |
| Total Fees Assessed: | = | \$1,100.00 |
| Claimants' One-Half share | = | \$ 550.00 |
| <u>Credit for Hearing Session deposit</u> | = | <u>\$ 400.00</u> |
| Claimants' Balance Due | = | \$ 150.00 |
| <u>Respondents One-Half Share</u> | = | <u>\$ 550.00</u> |
| Respondents Balance Due | = | \$ 550.00 |

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

ARBITRATORS

| <u>Name</u> | <u>Public / Industry</u> |
|--------------------|--------------------------|
| Delores Smith | Public Arbitrator |
| Oren Peretz | Industry Arbitrator |
| Lawrence Berkowitz | Public Arbitrator |

Concurring Arbitrators' Signatures

Delores Smith
Delores Smith

Oren Peretz

Lawrence Berkowitz

Date of Decision: _____

Date of Service: _____

ARBITRATORS

| <u>Name</u> | <u>Public / Industry</u> |
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| Delores Smith | Public Arbitrator |
| Oren Peretz | Industry Arbitrator |
| Lawrence Berkowitz | Public Arbitrator |

Concurring Arbitrators' Signatures

Delores Smith

Oren Peretz
Oren Peretz

Lawrence Berkowitz

Date of Decision: _____

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ARBITRATORS

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| Oren Peretz | Industry Arbitrator |
| Lawrence Berkowitz | Public Arbitrator |

Concurring Arbitrators' Signatures

Delores Smith

Oren Peretz



Lawrence Berkowitz

Date of Decision: 11/18/96

Date of Service: 11/19/96