

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Hazel and William Hopkins

95-05415

Name of Respondents

A.B. Culbertson & Company
Charles W. Burks

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on November 15, 1995, Claimants Hazel and Williams Hopkins ("H. Hopkins"), through their representative, Barbara L. Wolf, Esq., located in Ft. Lauderdale, FL, alleged that Respondent A.B. Culbertson & Company ("ABC"), through Respondent Charles W. Burks ("Burks"), convinced H. Hopkins to purchase the Income Fund of America ("IFA") indicating that the price would not fall and would pay her 12% interest. H. Hopkins further alleged that Burks took the proceeds of her church bonds and began purchasing IFA in late 1993 but never sent her any confirmation slips. H. Hopkins contended that Respondents made repeated errors in reporting the number of shares she was purchasing and repeatedly ignored her requests to correct the problem. H. Hopkins further contended that IFA did not pay 12% and steadily declined in market value yet Respondents continually reported her cost not the fair market value of IFA. H. Hopkins alleged that she became dissatisfied with Respondents and sold the IFA at which time she realized it had declined 11 1/2% in value. Claimants further alleged that as a result of the above, they have suffered a loss for which the Respondents should be held liable.

Respondents A.B. Culbertson & Company, and Charles W. Burks, through its representative, B. Frank Cain, of Bower & Cain, P.C., located in Fort Worth, TX, maintained that Burks contacted H. Hopkins in July of 1993 to discuss investing some cash proceeds from some church bonds which had been called. Respondents further maintained that H. Hopkins expressed interest in IFA and that she was sent a prospectus. Respondents contended that H. Hopkins was told that IFA average a 12% return over the last five years but that this was not an indicator of future performance. Respondents further contended that H. Hopkins agreed to all purchases of IFA and that the value of the investment was available from a variety of sources. Respondents maintained that no misrepresentations were made concerning IFA and that prospectuses were sent on more than one occasion. Respondents further maintained that as a result of the above, they should not be held liable.

RELIEF REQUESTED

Claimants Hazel and William Hopkins, requested \$8,472.00 in actual damages plus interest, costs and attorney's fees.

Respondents A.B. Culbertson & Company, and Charles W. Burks, requested that the claims of the Claimant be dismissed.

OTHER ISSUES CONSIDERED AND DECIDED

The arbitrator considered and reviewed all documentary submissions concerning Respondents' request that the documentary submission by Claimants dated January 19, 1996 not be considered as it was not filed timely. The arbitrator denied the request.

AWARD

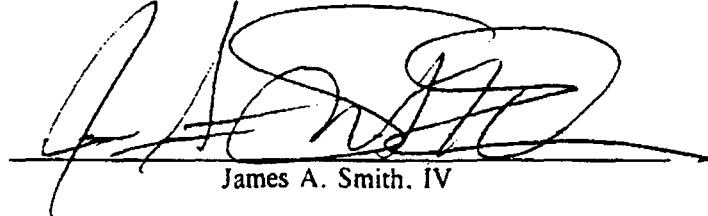
Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, James A. Smith, IV, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on November 8, 1995, and by the Respondents on December 19, 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. The Respondents A.B. Culbertson & Company, and Charles W. Burks, are jointly and severally and shall pay to the Claimants Hazel and William Hopkins, \$5,000.00 in actual damages.
2. The Respondents A.B. Culbertson & Company, and Charles W. Burks, are jointly and severally and shall pay to the Claimants Hazel and William Hopkins, \$1,000.00 in attorney's fees pursuant to Florida Statute Section 517.
3. The parties shall bear their respective costs.
4. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants Hazel and William Hopkins, shall be retained by the NASD, Inc. The Respondents A.B. Culbertson & Company, and Charles W. Burks, are jointly and severally and shall pay to the Claimants Hazel and William Hopkins, \$150.00 as reimbursement of the filing fee.
5. All other relief requests are denied.

AFFIRMATION

I, **JAMES A. SMITH, IV**, 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.

A handwritten signature in black ink, appearing to read 'James A. Smith, IV', is written over a horizontal line. The signature is stylized with large loops and a long horizontal stroke at the end.

James A. Smith, IV

DATE OF DECISION: March 26, 1996