

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Doris E. Cohn

96-00639

Name of Respondent

Gene Lanton

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CASE SUMMARY

In a claim filed with the National Association of Securities Dealer, Inc. on February 12, 1996, Claimant Doris E. Cohn ("Claimant"), who appeared Pro Se, alleged that Respondent Gene Lanton ("Respondent") made improper decisions regarding her investments. Claimant further alleged that her father, who originally made all their investment decisions, chose the Respondent as their financial advisor. Claimant also alleged that her father repeatedly stressed that the Respondent was to purchase only government securities with their money. Claimant asserted that all of her investment transactions were made by telephone communication to the Respondent. Claimant further asserted that while her father was in the hospital, the Respondent contacted her informing her that she was losing on her Government Securities investment. Claimant also asserted that Respondent urged her to sell her government securities and to buy shares of Atel Limited Partnership ("Atel") in order to curtail her losses. Claimant contended that the Respondent did not offer her information about Atel except that it was had a 10 1/2% interest rate and was a limited offer. Claimant further contended that the fear of losing her savings money caused her to immediately purchase shares in Atel. Claimant also contended that after her father's death, she consulted Mr. Pascarella, a financial advisor, who recommended the immediate sale of her investment in Atel. Claimant alleged that Mr. Pascarella additionally informed her that it was not appropriate for her to invest half her life savings in Atel as it was a risky security. Claimant further alleged that the Respondent sold her Atel investment at a loss and sent her the proceeds of the sale. Claimant also alleged that the Respondent gave her a personal check to cover a small part of her losses. Claimant asserted that due to the wrongdoing of the Respondent, she suffered damages for which the Respondent should be held liable.

Respondent Gene Lanton ("Respondent"), through its representative, Joseph D'Elia, a sole practitioner, located in Huntington, New York, maintained that the Claimant was an appropriate investor for the Atel Limited Partnership ("Atel"). Respondent further maintained that Claimant's purchase of Atel was reasonable in light of her objectives and financial status. Respondent also maintained that the Claimant represented her total net worth to be over \$350,000.00. Respondent contended that when the Claimant desired an investment with a stronger income potential, she was presented with several alternatives and was informed of the risks, therefore, Claimant's decision to invest in Atel was an informed one. Respondent also contended that the Claimant received an Atel prospectus which explained in detail the risks associated with the investment. Respondent maintained that the Claimant also discussed Atel with her father, an accountant, before purchasing it. Respondent further maintained that the Claimant's claims were the subject of a prior settlement and release which bars the current action. Respondent also maintained that it committed no wrongdoing and requested that the claims against it be dismissed.

#### **RELIEF REQUESTED**

Claimant Doris E. Cohn, requested \$6,437.50 in actual damages and interest.

Respondent Gene Lanton, 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, Marc L. Ripp, Esq. was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant Doris E. Cohn on January 26, 1996, and by the Respondent Gene Lanton on March 20, 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. The claims of Claimant Doris E. Cohn against Respondent Gene Lanton are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealer, Inc. by the Claimant Doris E. Cohn shall be retained by the NASD, Inc.

AFFIRMATION

I, **MARC L. RIPP**, 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.

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MARC L. RIPP

Date of Decision: September 17, 1996