

N.A.S.D. AWARD**NASD Regulation, Inc. Office of Dispute Resolution**

In the Matter of the Arbitration Between**Names of Claimants**

Steven and Eva Varga Jaszay

96-00683

Names of RespondentsJoel B. Deitch
Northeast Brokerage Services Corp.

REPRESENTATIONClaimants appeared pro se.

For Respondents: Stanley T. Padgett, Esq. of Morgan, Padgett & Mierzwinski, P.A., Tampa, Florida.

CASE INFORMATION

Statement of Claim filed: February 12, 1996.

Amended Statement of Claim filed: March 27, 1996.

Claimants' Submission Agreement signed on: March 27, 1996.

Joint Statement of Answer to the Amended Statement of Claim filed by Respondents Northeast Brokerage Services Corp. ("Northeast") and Joel Deitch ("Deitch") on: May 28, 1996.

Respondent Northeast's Submission Agreement/Corporate Acknowledgment signed on: July 21, 1998 by Patricia Arciero-Craig on behalf of the firm.

Respondent Deitch's Submission Agreement signed on: July 22, 1998.

HEARING INFORMATION

The arbitration panel conducted pre-hearing conferences lasting two (2) sessions on September 12, 1997 and March 4, 1998.

On June 25, 1997 a hearing lasting one (1) session was conducted in Boca Raton, Florida.

CASE SUMMARY

Claimants alleged that they are retired and that before becoming acquainted with Respondents they had very limited experience with investments; that Respondents were aware that Claimants had no other income other than the income from their social security; that they wanted to preserve their capital and

Page 2

NASD Award #96-00683

receive a monthly income; that they wanted their principal to remain intact; and, that Respondent Deitch assured them that although their monthly income may fluctuate, their principal would remain intact. Claimants further alleged that in August, 1991 they invested \$60,000.00 in Pilgrim Adjustable U.S. Government Securities Trust 1 and in April 1992 they invested an additional \$30,000.00 into the same fund; that when Claimants noticed a drop in income and that their capital was down to \$56,082.00 they requested a refund of their capital which they invested into a certificate of deposit. Claimants maintained that the foregoing purchases were unsuitable and that Respondents are liable to them due to broker-ignorance, misrepresentation and omission, breach of fiduciary duty, fraud and deceit.

Respondents denied the allegations of wrongdoing contained in the Statement of Claim and alleged the following: that in July, 1991, Claimants opened an account in New York with Dollar Dry Dock Investment Services Corp. ("DDDISC"), a wholly owned subsidiary of Dollar Dry Dock Bank, which subsequently was taken over by the FDIC; that through the account with DDDISC, Claimants purchased \$60,000.00 of Pilgrim U.S. Government Securities Trust on August 23, 1991, and \$30,000.00 of the same security on February 28, 1992; and, that on April 30, 1992, the FDIC sold the brokerage subsidiary to Northeast Brokerage Service Corporation with which Respondent Deitch became employed in August, 1992, after the two purchases made by Claimants. Respondents further alleged that in 1994, when the monthly income dropped, rather than contact Northeast, Claimants contacted Pilgrim and learned that the principal had dropped from \$90,000.00 to \$86,209.82; that without any notice to Northeast, Claimants instructed Pilgrim to move their account so that Northeast no longer was a broker of record, and followed Pilgrim's advice to switch into another Pilgrim Fund; that after the switch by Pilgrim, the new investment lost an additional \$32,000.00 over the next year; and, that from August 1991 until February 1994, the period Claimants held the original investment in Pilgrim Adjustable U.S. Government Securities Trust 1, Claimants received cash dividend pay-outs of \$13,009.46, for a total annualized yield or return on the investment of 4.09%.

RELIEF REQUESTED

Claimants requested an award of compensatory damages in the approximate amount of \$33,916.00; interest of \$1,700.00; punitive damages in the amount of \$11,000.00; costs, filing fees and expenses of this proceeding of approximately \$2,520.00; reasonable attorneys' fees; treble damages; and, such other relief as this panel may deem just and appropriate.

Respondents Northeast and Deitch requested a dismissal of the claim, and that they be awarded attorneys' fees of \$6,000.00 and costs of \$500.00 for being forced to defend these proceedings. Respondents further requested the expungment of all references to this proceeding from Respondent Deitch's Central Registration Depository ("CRD") record with the NASD.

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 original(s) remain on file with NASD Regulation, Inc.

Prior to the arbitration hearing the arbitrators granted the parties' consensual request that Respondent Deitch be permitted to testify via telephone during the hearing of this matter.

Page 3

NASD Award #96-00683

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing and post hearing submissions (if any), the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents Northeast and Deitch are found not liable and, therefore, all claims against them are hereby dismissed.
2. Claimants' requests for interest, punitive damages, costs, reasonable attorneys' fees treble damages and expenses are hereby denied.
3. Respondents' requests for attorneys' fees and costs are denied.
4. All references to this proceeding shall be expunged from Respondent Deitch's CRD record with the NASD.
5. Respondent Northeast shall pay to the Claimants \$750.00 representing reimbursement of the hearing session deposit previously paid by the Claimants.

FORUM FEES

Pursuant to Rule 10332(b) of the Code, a hearing session is any meeting between the parties and the arbitrators, including a pre-hearing conference with an arbitrator, which lasts four hours or less.

Pursuant to Rule 10332(c) of the Code, the arbitrators have assessed forum fees in the amount of \$2,250.00 (two (2) pre-hearing conferences (panel) x \$750.00 + one (1) hearing session x \$750.00).

1. Respondent Northeast is assessed forum fees in the amount of \$2,250.00 for which NASD Regulation, Inc. shall retain the \$750.00 previously deposited by the Claimants leaving a balance due to NASD Regulation, Inc. by Respondent Northeast of \$1,500.00.

OTHER FEES

1. Pursuant to Rule 10332 of the Code, Claimants have paid to NASD Regulation, Inc. the claim filing fee of \$200.00.
2. Pursuant to Rule 10333 of the Code, Respondent Northeast shall pay to NASD Regulation, Inc. the member surcharge of \$350.00 which was previously invoiced.

Fees are payable to the NASD Regulation, Inc., Office of Dispute Resolution.

Concurring Arbitrators' Signatures

_____/s/_____
Gustavus L. Pearthree

_____/s/_____
Kathy N. Novick

Page 4
NASD Award #96-00683

Dissenting Arbitrator's Signature

_____/s/_____
Robert Kasky, Esq.

(Arbitrator Robert Kasky, Esq. dissents as to paragraph one (1) of the Award with respect to the issue of liability, but otherwise concurs in the decision).

Date of Decision: July 27, 1998