

AWARD

NASD Regulation, Inc. Office of Dispute Resolution

In the Matter of the Arbitration Between

Mark Triffler, as Trustee of the Mark
Triffler Oldsmobile Profit Sharing Plan;
Mark Triffler;
Robert Langendorf

Claimants

No. 96-00702

LaSalle Street Securities, Inc.;
Darrell M. Pepple

Respondents

REPRESENTATION OF PARTIES

For Claimants: Mark Triffler, as Trustee of the Mark Triffler Oldsmobile Profit Sharing Plan (the "Plan"), Mark Triffler ("Triffler"), and Robert Langendorf ("Langendorf") were represented by Robert Langendorf, Esq. of Chicago, Illinois.

For Respondents: LaSalle Street Securities, Inc. ("LaSalle"), and Darrell M. Pepple ("Pepple") were represented by David A. Genelly, Esq., of Fishman & Merrick, P.C., located in Chicago, Illinois.

CASE INFORMATION

Claimants' Statement of Claim was filed on: February 15, 1996.

The Plan's Submission Agreement was signed on: March 15, 1996 by Mark Triffler, Trustee of the Mark Triffler Oldsmobile Profit Sharing Plan.

Claimant Triffler's Submission Agreement was signed on: February 13, 1996.

Claimant Langendorf's Submission agreement was signed on: February 13, 1996.

Respondents' Statement of Answer was filed on: May 21, 1996.

Respondent LaSalle's Submission Agreement was signed by Paul Wedeen, Vice President of LaSalle Street Securities, Inc., on: May 21, 1996.

Respondent Pepple's Submission Agreement was signed on: May 20, 1996.

HEARING INFORMATION

Pre-hearing Conferences: None held.

Hearing Date/Sessions: January 23, 1997 for two (2) sessions.

Hearing Location: Chicago, Illinois.

CASE SUMMARY

Claimants alleged that Respondent Pepple, while employed by or acting as an agent for LaSalle, made misrepresentations of material facts. According to Claimants, Pepple solicited each of them to invest \$100,000 in General Electric CAP CRP ECU NT DTD 2/10/92. Claimants asserted that Pepple informed them that this was a very safe and "riskless" investment; Triffler further argued that this was very important since he was the trustee of the Plan and thus had a fiduciary responsibility to the Plan's participants. Claimants were also allegedly informed by Pepple that since General Electric was rated AAA, the risk of not receiving their entire principal at maturity was very remote, even though the bond was denominated in a foreign currency. Claimants stated that they requested information about this bond, but they never received any information. On or about February 19, 1994, Claimants each received \$77,049.00 as proceeds on the maturity of their investments, which resulted in a loss to each of them of \$22,951.00.

Respondents denied that Claimants have been injured in any way. Respondents stated that Triffler and Langendorf are sophisticated investors that went to Pepple with the investment objective of taking advantage of higher yielding European interest rates by investing in European fixed rate securities. Respondents further stated that at all times Claimants were aware of both the risk of potential interest fluctuations as well as currency rate fluctuations on the value of their investments. Respondents further argued that Claimants were fully informed about their investment, and since they periodically checked on the effect of currency fluctuations on the value of their investment, they should have complained and sold the their bond the first time they learned that the price of their bond had fluctuated. Finally, Respondents stated in their affirmative defense that at all times Claimants were aware of the nature and risk of their investments, and Claimants claims are thus barred by the doctrines of estoppel and ratification.

RELIEF REQUESTED

Claimants each requested an award for compensatory damages in the amount of \$22,951.00, for a total of \$68,853.00.

Respondents requested that the panel of arbitrators award them there costs and fees incurred in this arbitration, and that Claimants be awarded nothing.

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 originals remain on file with NASD Regulation, Inc. Office of Dispute Resolution.

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. Respondent LaSalle Street Securities, Inc. is liable for and shall pay to Claimant Mark Triffler, as Trustee for the Oldsmobile Profit Sharing Plan, compensatory damages in the sum of \$4,750.00;
2. In addition, Respondent LaSalle Street Securities, Inc. is liable for and shall pay to Claimant Mark Triffler compensatory damages in the amount of \$4,750.00;
3. Furthermore, Respondent LaSalle Street Securities, Inc. is liable for and shall pay to Claimant Robert Langendorf the sum of \$4,750.00 as compensatory damages;
4. The claims against Respondent Darrell M. Pepple are dismissed with prejudice and denied in the entirety;
5. The parties shall bear their own costs of arbitration, including attorney fees, except for those specifically enumerated herein; and
6. Any relief not specifically awarded is hereby denied.

FORUM FEES

Pursuant to §10332(b) of the NASD Code of Arbitration Procedure (the "Code"), the following Forum fees are assessed: Two (2) hearing sessions x \$500 per session = \$1,000.

The NASD Regulation, Inc. Office of Dispute Resolution shall **retain** the non-refundable filing fee in the amount of \$150 and shall **refund** the hearing session deposit in the amount of \$500 previously deposited with NASD Regulation, Inc., Office of Dispute Resolution by Claimants.

Pursuant to §10333 of the Code, NASD Regulation, Inc. Office of Dispute Resolution shall **retain** the non-refundable member surcharge in the amount of \$300 previously deposited with NASD Regulation, Inc. Office of Dispute Resolution by Respondent LaSalle Street Securities, Inc.

Respondent LaSalle Street Securities is liable for and shall pay the NASD Regulation, Inc. Office of Dispute Resolution forum fees in the amount of \$1,000.00.

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

Dated:

/s/ Sheldon I. Saitlin, Esq.
Sheldon I. Saitlin, Esquire
Public Arbitrator, Presiding Chair

February 26, 1997

/s/ Theodore L. Leeb, Esq.
Theodore L. Leeb, Esquire
Public Arbitrator

March 1, 1997

/s/ Brian E. Slotky
Brian E. Slotky
Industry Arbitrator

February 25, 1997