

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Leon E. & Marilyn J. Whiteman

96-00835

Name of Respondent

SunBank & Trust Company n/k/a SunTrust Bank

REPRESENTATION

The Claimants appeared pro se.

For Respondent: Joseph Hern, Esq., in-house counsel at SunTrust Bank.

CASE INFORMATION

Statement of Claim filed: February 26, 1996.

Claimants' Submission Agreement signed on: February 7, 1996.

Statement of Answer filed by Respondent on: April 22, 1996.

Respondent's Submission Agreement signed on: April 17, 1996.

HEARING INFORMATION

One session was conducted in this matter on November 5, 1996 in Tampa, Florida.

CASE SUMMARY

Claimants alleged that there was inadequate disclosure of the sales charges associated with the two mutual funds that were sold to the Claimants by the Respondent. Claimants next maintained that if adequate disclosure was made concerning the charges, they would have had the opportunity to accept the recommendation made by the agent of the Respondent or invested their funds elsewhere. Claimants next alleged that the confirmations clearly indicated that there were no fees associated with these investments and these documents were misleading. Claimants

next maintained that confirmations from other broker/dealers clearly list all charges and fees.

Respondent maintained that based upon the verbal as well as written disclosures made by the agent of SunTrust Bank at the time of purchase, the Claimants' knowledge of the sales charge was unavoidable. Respondent next maintained that the Claimants signed a disclosure statement attesting that a prospectus for each mutual fund was provided to them, and that all fees, sales charges and annual expenses were discussed. Respondent next maintained that the statement by the Claimants that confirmations from other broker/dealers show the sales charges for mutual fund purchases is inaccurate.

RELIEF REQUESTED

Claimants requested damages in the sum of \$4,250.00.

Respondent requested that the Claimants' claim be denied.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

All claims by the Claimants be and hereby are dismissed in all respects.

Each party shall bear their respective costs including attorneys' fees.

FORUM FEES

Pursuant to Section 10332 of the Code of Arbitration Procedure, the Arbitrator has determined that the NASD shall retain the \$50.00 claim filing fee and the \$100.00 hearing session deposit previously paid by the Claimants to the NASD.

Arbitrator's Signature

Name


Edwin B. Kagan, Esq.

Public/Industry

Public

Date of Decision: November 12, 1996