

AWARD

NASD Regulation, Inc. Office of Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

Charles A. Thurman

and

96-01009

Name of Respondents

Robert I. Moses,
Andrew Alessandrini,
Paul P. Alessandrini, Sr.,
Paul P. Alessandrini, Jr.,
Paul Lansat,
David Karetsky,
Geraldine K. Karetsky,
Renee M. Salzman,
Martin C. O'Brien,
Stephen J. Geness,
Chadbourn Bolles, Jr.,
Richard Engelhardt,
George Carhart

REPRESENTATION OF PARTIES

Charles A. Thurman ("**Claimant**") appeared on his own behalf.

Andrew Alessandrini, Paul P. Alessandrini, Sr., Paul P. Alessandrini, Jr., David Karetsky, Geraldine K. Karetsky, Renee M. Salzman, Martin C. O'Brien, Stephen J. Geness, Chadbourn Bolles, Jr., Richard Engelhardt, George Carhart ("**Respondents**") were not represented by counsel, and were dismissed from this arbitration due to lack of this forum's jurisdiction over them.

Paul Lansat ("**Lansat**") was represented by Brian J. Cooke, Esq., of Arnstein & Lehr, West Palm Beach, Florida. Lansat was dismissed prior to the arbitration hearing.

Robert I. Moses ("**Moses**") was represented by Kenneth A. Caruso of Shaw, Pittman, Potts and Trowbridge, New York, New York. Moses failed to appear at the hearing.

CASE INFORMATION

Claimant filed the Statement of Claim on or about , 1996, and signed the Submission Agreement on May 1, 1996. Claimant's Amendments to the Statement of Claim were filed on or about April 11, 1996 and July 22, 1996.

Respondent Lansat filed a Statement of Answer on or about September 4, 1996, and signed the Submission Agreement on September 4, 1996.

NASD Regulation Office of Dispute Resolution does not have a record of Answers or Submission Agreements being filed by the other named parties.

HEARING INFORMATION

The Arbitration Panel held a hearing on February 26, 1998 in St. Louis, Missouri for a total of one (1) session.

CASE SUMMARY

Claimant contended that: The Respondents sold him unsuitable investments that were neither authorized by the law or suitable for his financial situation; the Respondents sold his a fraudulent limited partnership for \$10,000 and 6000 shares of an unregistered stock for \$39,000; Respondents abused the trust and confidence of their clients by permitting and encouraging investments that were not authorized by law; Respondents failed to disclose the past activities of Robert Israel Moses and Paul Peter Alessandrini, Sr.; Respondents failed to disclose material facts on the investments they sold; and Respondents violated the registration and anti-fraud provisions of the Federal Securities laws by selling unregistered securities.

Lansat denied the allegations set forth in the Statement of Claim. Lansat specifically stated that: The Statement of Claim failed to state a claim against Lansat for which relief may be granted; Claimant's claims for unsuitability fail as a matter of law; Claimant has not alleged the misrepresentations or omissions on which he bases his claim; Claimant cannot establish that Lansat recommended the investment or that he did so with the intent to defraud; Claimant's claim for breach of fiduciary duty shall be dismissed based on the fact that there are no allegations alleging that Tar Heel Securities was one of the brokerage firms involved in either soliciting and/or recommending to Claimant the purported unsuitable investments; Claimant's claim should be barred or reduced by Claimant's own comparative negligence and conduct in handling his affairs; assuming Claimant suffered damages, Lansat denied such damages were caused or contributed by conduct or events beyond the control of Lansat, and for which Lansat should not be held liable; Claimant exercised control over all investment decisions with respect to his account; Claimant's damages, if any, were caused solely by actions of Claimant whose willingness and ability to assume the risks of investments which were chosen by Claimant preclude recovery from Lansat; Claimant was capable of understanding the risks of all investments he chose and fully appreciated those risks before making any investment decisions; Claimant acknowledged and assumed all risks incident to the investments made in his account; Claimant failed to mitigate damages; Lansat is not liable to Claimant because he had no duty to inform Claimant of any facts other than those which were provided; Claimant is not entitled to an award of attorney's fees; and Claimant is not entitled to an award of punitive damages.

RELIEF REQUESTED

Claimant requested an award against the Respondents of the following: Compensatory damages of \$160,000; and punitive damages of \$10,000,000.

Lansat requested that all claims asserted against him be dismissed with prejudice. Alternatively, Lansat requested that Claimant be awarded nothing, that Claimant be required to pay all the costs and expenses for this arbitration; that Claimant be required to pay all Lansat's costs and attorney's fees, if appropriate, under applicable law.

OTHER ISSUES CONSIDERED & DECIDED

Respondents Bolles, Andrew Alessandrini, Paul Alessandrini Sr. and Jr., Geness, and O'Brien requested dismissal based on lack of jurisdiction. Respondents Geraldine and David Karetsky, Salzman, Engelhardt, and Carhart never submitted to Arbitration. After review of the parties' filings and deliberation, the arbitrators dismissed Respondents Lansat, David and Geraldine Karetsky, Salzman; Englehart, Carhart, the Alessandrini's, O'Brien, Geness, and Bolles on the basis of lack of jurisdiction to hear any claim against these respondents.

Claimant requested that respondents be barred from filing and Answers or defenses. After review of the parties' documents, and deliberation, the undersigned arbitrators denied the request.

Lansat filed a request for dismissal based on Claimant's failure to produce discovery as ordered. After review of the parties' documents and deliberation, the arbitrators denied the motion.

Claimant requested, in December of 1997, that his Statement of Claim be amended to include the following as party Respondents: Tar Heel Securities; Chadbourne Securities; South Hampton Preferred Equities, Inc.; South Hampton Preferred Equities; Southhampton Preferred Equities; South Hampton Preferred Securities; and Westfield financial Corporation. After review of the parties' documents, and deliberation, the arbitrators denied Claimant's request.

Upon review of the file and the representations made by/on behalf of the Claimant, the undersigned arbitrators have determined that Respondent Moses has been properly served with the Statement of Claim pursuant to Rules 10302 and 10314 of the NASD Code of Arbitration Procedure (the "Code"). The undersigned arbitrators have also determined that Respondent Moses had received due notice of the hearing as required under Rule 10315 of the Code and that arbitration of the matter would proceed pursuant to Rule 10318 of the Code.

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. 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:

Respondent Moses is liable for and shall pay to Claimant, Charles A. Thurman, the following: \$49,000 for compensatory damages; filing costs of \$300; and \$100,000 for punitive damages. The award for punitive damages is based on a finding of overt fraud by the undersigned arbitrators.

All other claims/requests for relief are, and each of them, denied with prejudice.

FORUM FEES

Forum fees are calculated at the rate of \$1,500 per hearing session. There was one (1) session x \$1,500 = \$1,500 in forum fees. Pursuant to Rule 10332(b) of the Code, a hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with an arbitrator, which lasts four (4) hours or less.

Pursuant to Rule 10332 (c) of the Code, NASD Regulation, Inc. Office of Dispute Resolution shall **retain** the non-refundable filing fee in the amount of \$300.

Forum fees in the amount of \$1,500 are assessed by the arbitrators against Respondent Moses.

Dated:

Hon. Charles E. Jones
Hon. Charles E. Jones, Esq.
Public Arbitrator, Presiding Chair

/s/

April 15, 1998

William M. Holland
William M. Holland
Public Arbitrator

/s/

April 14, 1998

Edwin R. Cohen
Edwin R. Cohen
Industry Arbitrator

/s/

April 13, 1998