

AWARD

NASD Regulation, Inc. Office of Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

Leonard H. Franks, CPCU & Associates, Inc.
Employee Profit Sharing Retirement Plan

and

96-01372

Name of Respondent

International Assets Advisory Corp.;
Kevin Woodbridge.

REPRESENTATION OF PARTIES

For Claimant: Claimant Leonard H. Franks ("Franks") was represented by Victor J. Schubert, Esq. of Glencoe, Illinois.

For Respondents: Respondent International Assets Advisory Corp. ("IAAC") was represented by Stanley T. Padgett, Esq. of Brandon, Florida.

Respondent Kevin Woodbridge ("Woodbridge") represented himself.

CASE INFORMATION

Statement of Claim filed on: May 30, 1996.

Claimant's Submission Agreement signed on: March 27, 1996 by Leonard H. Franks, Trustee, of the Leonard H. Franks, CPCU & Associates, Inc. Employee Profit Sharing Retirement Plan.

Statement of Answer filed by IAAC on: June 17, 1996

Statement of Answer filed by Woodbridge on: December 27, 1996

IAAC's Submission Agreement signed on: June 13, 1996 by Nancy M. McMurtry, Vice President of International Assets Advisory Corp.

Respondent Woodbridge did not file an executed submission agreement.

IAAC's Motion to Dismiss filed: June 17, 1996

Claimant's Response to IAAC's Motion to Dismiss filed: October 22, 1996

IAAC's Reply to Claimant's Response filed: October 30, 1996

HEARING INFORMATION

Pre-Hearing Conferences: None Held.
Hearing Dates/Sessions: February 3, 1997 for One (1) Session.
Hearing Location: Chicago, Illinois

CASE SUMMARY

Claimant alleged that Respondent misrepresented securities risks. Specifically, Franks alleged that:

1. Woodbridge, an IAAC sales agent, telephoned Franks to discuss Franks' International Beverage Corp. ("IBC") investment. Franks had no prior contact with Woodbridge;
2. Woodbridge informed Franks that several IBC shareholders were promoting the company to inflate the stock price. Woodbridge told Franks that the IBC stock price would sharply decline once the promotions ceased and persuaded Franks to sell his IBC holdings for \$.924 and purchase Western Canada Water Enterprises Inc. ("WCW");
3. After Woodbridge had sold a substantial portion of his IBC stock, IBC became Clearly Canadian Beverage Corp, and the value of the stock rose to \$19.875 per share;
4. Franks lost \$ 22,714.00 lost profits as a result of Woodbridge's misrepresentations.

Respondents denied the allegations set forth in the Statement of Claim. Respondents specifically stated :

1. Franks telephoned Woodbridge. Woodbridge did not have access to IBC shareholder phone numbers and therefore, could not have telephoned Franks;
2. Franks is an experienced stock speculator capable of independently evaluating securities risks;
3. At the time of the telephone conversation, IAAC was recommending that IBC shareholders sell their holdings and take realized profits;
4. IBC had been actively promoting their company. As such, IAAC reasonably believed that IBC stock price would decline once the promotional efforts ceased;

5. IAAC also reasonably recommended WCW stock based upon documented favorable company developments; and
6. Franks' claim is barred by the affirmative defenses of failure to state a claim and laches.

RELIEF REQUESTED

Claimant requested an award in the amount of \$22,714.00, costs of arbitration and attorneys' fees.

Respondents denied the claims asserted against them and asked the panel to award them costs and attorneys' fees.

OTHER ISSUES CONSIDERED & DECIDED

Respondent Kevin Woodbridge did not file an executed submission agreement, but pursuant to Section 10301 of the Code of Arbitration Procedure, is required to submit to arbitration.

On December 11, 1996, the panel accepted IAAC's Motion to Dismiss as an affirmative defense and deferred ruling until the hearing.

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 and the post-hearing submissions, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. The Statement of Claim filed by Claimant Leonard H. Franks, CPCU & Associates, Inc. Employee Profit Sharing Retirement Plan is dismissed with prejudice and denied in its entirety;
2. The parties shall bear their own costs of arbitration, including attorneys' fees, except for those specifically enumerated herein; and
3. Any relief not specifically granted is hereby denied.

FORUM FEES

Forum fees are calculated at the rate of \$ 400.00 per hearing session. There was One (1) session x \$ 400.00 = \$ 400.00 in forum fees. Pursuant to §10332(b) 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 §10332(c) of the NASD Code of Arbitration Procedure, NASD Regulation, Inc. Office of Dispute Resolution shall **retain** the non-refundable filing fee in the amount of \$ 100.00; shall refund 1/2 of the \$400.00 hearing session deposit in the amount of \$ 200.00 previously deposited with NASD Regulation, Inc. Office of Dispute Resolution by the Claimant; and shall retain the \$200.00 balance as forum fees.

Respondent International Assets Advisory Corp. shall pay to the NASD Regulation, Inc., Office of Dispute Resolution the sum of \$100.00 as forum fees.

Respondent Kevin Woodbridge shall pay to the NASD Regulation, Inc., Office of Dispute Resolution the sum of \$100.00 as forum fees.

Pursuant to §10333 of the NASD Code of Arbitration Procedure, Respondent International Investments Advisory Corp. is liable for and shall pay to the NASD Regulation, Inc. Office of Dispute Resolution the non-refundable member surcharge in the amount of \$ 200.00.

Dated:

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

April 1, 1997

/s/ Leon I. Edelson, Esq.
Leon I. Edelson, Esq.
Public Arbitrator

April 1, 1997

/s/ Jerome Stern
Jerome Stern
Industry Arbitrator

April 2, 1997