

AWARD

NASD REGULATION, INC., OFFICE OF DISPUTE RESOLUTION

In the matter of the Arbitration Between

Name of Claimant

David Martinez

v.

Arbitration No.

96-02515

Name of Respondents

CAI Securities Corporation
Lawrence J. Lucas
Ernest V. Lavagetto
Brian C. Tarbox

REPRESENTATION OF PARTIES

David Martinez ("**Claimant**") was represented by Richard Sacks and Irwin Stein, Investors Recovery Service, Novato, California.

CAI Securities Corp., Lawrence J. Lucas, Ernest V. Lavagetto, and Brian C. Tarbox ("**Respondents**") were represented by Mark Weilga, Esq. and Judith I. Meyka, Esq., Ballard Spahr Andrews and Ingersoll, Denver, Colorado.

CASE INFORMATION

Claimant's Statement of Claim was filed on or about June 10, 1996. Claimant's Submission Agreement was signed on October 25, 1995.

Respondents Joint Statement of Answer and Request to Decline Jurisdiction was filed on or about August 27, 1996. The Submission Agreement for CAI Securities was signed on June 18, 1997. The Submission Agreement for Lawrence J. Lucas was signed on June 20, 1997. The Submission Agreement for Ernest V. Lavagetto was signed on June 25, 1997. The Submission Agreement for Brian C. Tarbox was signed on July 8, 1997.

HEARING INFORMATION

A pre-hearing conference was held on February 10, 1997.

The hearing was held in San Francisco, California on the following dates:

July 7, 1997	2 sessions;
July 8, 1997	2 sessions;
July 9, 1997	2 sessions;
July 10, 1997	2 sessions.

CASE SUMMARY

Claimant alleged that his purchase of the Leasetec Income Fund V "LIF V" was based upon the conservative nature of the investment as represented by the Respondents through various written materials including the offering documents. Claimant further alleges that the Respondents concealed losses suffered by LIF V. Claimant asserts four causes of action: misrepresentation; breach of contract; negligence; breach of fiduciary duty.

The Respondents denied the allegations set forth in the Statement of Claim. Respondents specifically argued that the LIF V was a carefully structured investment in which the risks were carefully set forth to the Claimant prior to his purchase. Additionally, Respondents argue that the Claimant was a sophisticated investor capable of understanding the disclosures made to him. Respondents further argued that the NASD lacks any jurisdiction in this matter and that no contract, express or implied, existed between the Claimant and the Respondents.

RELIEF REQUESTED

The Claimant submitted damage calculations, based on interest and other factors, of \$492,503, \$698,177, and \$912,539. Additionally Claimant sought an award of unspecified punitive damages and costs.

Respondent requested that the claims asserted against them be denied in their entirety.

OTHER ISSUES CONSIDERED & DECIDED

A pre-hearing conference was held on February 10, 1997 to address Respondents Motion to Decline Jurisdiction. The motion was denied by the panel of arbitrators Nancy Hutt, Esq., Theodore Seton, and Carl Auer.

Nancy Hutt recused herself from the panel on March 10, 1997.

Theodore Seton made an additional disclosure on July 1, 1997. Based on this disclosure the Respondents filed a challenge for cause. On July 3, 1997 the Office of Dispute Resolution improperly granted Respondents' challenge for cause. Subsequent to being informed of these circumstances and in light of his previous disclosure Mr. Seton recused himself from the panel. James R. Dickson was accepted by both parties as the replacement arbitrator on the first day of the hearing, July 7, 1997.

Respondents submitted an Amended Answer on or about June 20, 1997. The Amended Answer was accepted by the panel and admitted into Arbitrators Exhibit #1 on July 7, 1997.

The parties have agreed that a handwritten, signed Award may be entered. The parties have agreed to receive conformed copies of the award while the original remains on file with NASD Regulation, Inc., Office of Dispute Resolution.

FINDINGS OF FACT & AWARD

After considering the pleadings, the testimony, and the evidence presented, including the evidence submitted on the issue of jurisdiction, the undersigned arbitrators make the following findings of fact:

1. The claim is eligible for submission to arbitration under § 10304 of the Code of Arbitration Procedure.
2. In December, 1988 and January, 1989, Claimant, David Martinez invested the sum of \$520,250.00 in Leastec Income Fund V.
3. Leastec Income Fund V ("the Fund") is a California Limited Partnership engaged in Equipment Leasing. At the time the Fund commenced operations, the general partners were Leastec Corporation and CAI Partners Management Company. CAI Securities is an affiliate of CAI Partners Management Company. Lawrence J. Lucas and Ernest Lavagetto were employed by Leastec Corporation. Brian Tarbox was employed by Capital Associates, Inc., an affiliated company.
4. The Prospectus for the Fund and the sales brochure were made available to Claimant prior to his investment in the Fund.
5. Quarterly Statements and Annual Reports were mailed to Claimant by the fund.
6. A Marketing Guide was used by the Fund to familiarize brokers with the investment.
7. All parties anticipate that as of the close of the Fund, less than the full amount of the original investment will be returned to the investors.
8. No material misrepresentations were made in the Prospectus, the Sales Brochure, the Marketing Guide or the periodic financial statements and reports.

9. To the extent that any contract may have been formed between Claimant and Respondents, it was not breached.
10. To the extent a fiduciary relationship may have existed between Claimant and each or any of the Respondents, there was no breach of said relationship.
11. The Respondents, and each of them were not negligent.

WHEREFORE, in full and final Resolution of the issues submitted for determination, the undersigned arbitrators order that:

1. The claim in its entirety be and is hereby denied and dismissed with prejudice.
2. Each side shall bear their own costs.

FORUM FEES

Forum fees are calculated at the rate of \$1,000 per hearing session and \$300 for each prehearing conference, if any. There were 7 sessions x \$1,000 plus 1 pre-hearing conference x \$300 = \$7,300 in forum fees. Pursuant to Rule 10332(b) of the NASD Regulation, Inc., Office of Dispute Resolution Code of Arbitration Procedure (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 of Arbitration Procedure, the Claimant is assessed all forum fees.

Total Fees	
1 Pre-Hearing Conf. @ \$300.00 =	\$ 300.00
7 Hearing Sessions @ \$1,000.00 =	\$7,000.00
Total	<u>\$7,300.00</u>

Claimant's assessed fees	\$7,300.00
Claimant's credit for deposit	<u>\$1,000.00</u>
Claimant's balance	\$6,300.00

Pursuant to Rule 10332(c) of the Code, NASD Regulation, Inc. shall **retain** the non-refundable filing fee in the amount of \$250 and shall **retain** as forum fees the hearing session deposit in the amount of \$1,000 previously deposited with NASD Regulation, Inc. by the Claimant.

Pursuant to Rule 10333 of the Code, the NASD shall retain the member surcharge fee in the amount of \$500 previously paid by CAI Securities Corporation.

Fees are payable to the NASD, Regulation, Inc.

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HELEN B CULINER

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Helen B. Culiner
Helen B. Culiner, Esq.
Public Arbitrator, Presiding Chair

Carl H. Auer
Public Arbitrator

James R. Dickson
Industry Arbitrator

Dated:

7-18-97

Date served: 7/18/1997

NASD Arbitration No.
Award Page 5 of 5

Dated:

Helen B. Culiner, Esq.
Public Arbitrator, Presiding Chair

Carl H. Auer
Public Arbitrator


James R. Dickson
Industry Arbitrator

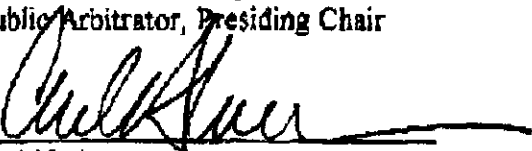
July 17, 1997

Date served: 7/18/1997

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Dated:

Helen B. Culiner, Esq.
Public Arbitrator, Presiding Chair


Carl H. Auer
Public Arbitrator


7/16/97

James R. Dickson
Industry Arbitrator

Date served: 7/18/1997