

AWARD

NASD REGULATION, INC., OFFICE OF DISPUTE RESOLUTION

In the matter of the Arbitration Between

Name of Claimant

Cherrill Witham, IRA

v.

Arbitration No.
96-02978

Name of Respondents

*Concord Financial Counselors, Inc.
Titan/Value Equities Group
N. Terry Anderson
Glen J. Lutz

REPRESENTATION OF PARTIES

Cherrill Witham ("Claimant") was represented by B. Kevin Burgess, Esq., Watkinson Laird Rubenstein & Lashway, Portland, Oregon.

Concord Financial Counselors, Inc., Titan/Value Equities Group, N. Terry Anderson, and Glen J. Lutz ("Respondent") were represented by Peter R. Mersereau, Esq., Mersereau & Shannon, Portland, Oregon.

CASE INFORMATION

Claimants' Statement of Claim was filed on or about July 9, 1996.
Claimants' Submission Agreement was signed on July 3, 1996.
The Joint Statement of Answer was filed on or about October 4, 1996.
Concord Financial Counselors Submission Agreement was signed on October 7, 1996.
Titan/Value Equities Submission Agreement was signed on August 21, 1996.
Terry Anderson's Submission Agreement was signed on October 8, 1996.
Glen Lutz's Submission Agreement was signed on October 7, 1996.

HEARING INFORMATION

A pre-hearing conference was held on March 14, 1997 via teleconference. The hearing was held on September 4, 1997 and September 5, 1997 in Portland, Oregon for a total of 4 sessions.

CASE SUMMARY

Claimant alleges that the Respondents made numerous optimistic misrepresentations regarding the potential economic benefits which induced Claimant to retire from her job and invest her retirement package through the Respondents. Claimant further alleges that the Respondents made recommendations to the Claimant that she purchase a variety of limited partnerships for her portfolio. Additionally, Claimant alleges that the limited partnerships recommended by the Respondents were unsuitable for an investor of Claimant's experience and sophistication and subsequently suffered severe losses.

Respondent denied the allegations set forth in the Statement of Claim. Respondents specifically argued that the Claimant opened her account with Respondents only after accepting an early retirement package from her employer. Respondents further argued that Claimant rolled her pension and retirement package into a diversified portfolio which consisted of mutual funds, cash, common stock and limited partnerships. Additionally, Respondents argue that there were complete and accurate disclosures made regarding all the Claimants investments.

RELIEF REQUESTED

Claimant requested an award in the amount of \$91,500 in lost investment opportunity, plus an award of \$271,883.50 in lost salary. Additionally, Claimant is seeking an award of costs, disbursements and attorneys' fees.

Respondent requested that the claims asserted against it be denied in their entirety and that it be awarded its costs and attorneys' fees.

OTHER ISSUES CONSIDERED & DECIDED

Following the pre-hearing conference on March 14, 1997 the panel granted Respondent's Motion to Dismiss all claims relating to lost wages and benefits.

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.

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. Claimant is awarded and Respondents, jointly and severally, shall pay to Claimant the sum of \$42,000.
2. Each side to bear their own costs.

FORUM FEES

Forum fees are calculated at the rate of \$750 per hearing session and \$300 for each prehearing conference, if any. There were 5 sessions x \$750 = \$3,750 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, all forum fees are assessed against the respondents jointly and severally bearing.

Total Fees

5 Hearing Sessions @ \$750.00 =	\$3,750.00
Total	\$3,750.00

Pursuant to Rule 10332(c) of the Code, NASD Regulation, Inc. shall retain the non-refundable filing fee in the amount of \$200 and shall refund the hearing session deposit in the amount of \$750 previously deposited with NASD Regulation, Inc. by the Claimant Witham.

Pursuant to Rule 10333 of the Code, the NASD shall retain the member surcharge fee in the amount of \$350 previously paid by Titan/Value Equities Group.

Fees are payable to the NASD, Regulation, Inc.

Dated:

Willard L. Cushing, Esq.
Public Arbitrator, Presiding Chair



Clyde Fahlman
Public Arbitrator

October 11, 1997

Ryan Darwish
Industry Arbitrator

Date Served: October 24, 1997

FORUM FEES

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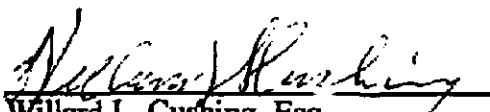
5 Hearing Sessions @ \$750.00 -	\$3,750.00
Total	<u>\$3,750.00</u>

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Dated:


Willard L. Cushing, Esq.
Public Arbitrator, Presiding Chair

October 13, 1997

Clyde Fahlman
Public Arbitrator

Ryan Darwish
Industry Arbitrator

Date Served: October 24, 1997

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Ryan Darwish
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10/13/97

Date Served: October 24, 1997