

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Linda Matsumoto

96-03831

Name of Respondents

Crowell, Weedon & Co.
Tsutomu Uchida

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers Regulation, Inc. on August 28, 1996, Claimant Linda Matsumoto ("Claimant"), through her representative and counsel David Bortman, Esq., a solo practitioner located in Los Angeles, California, alleged that Respondents Crowell, Weedon & Co. ("Crowell") and Tsutomu Uchida ("Uchida") misrepresented and omitted material facts in the sale of securities to her. Claimant further alleged that she is an unsophisticated investor. Claimant also alleged that in 1994 she was contacted by Uchida and opened an account with Crowell. Claimant asserted that she informed Uchida her investment objectives were "conservative income" and "conservative appreciation" and that she needed her investment secure because she was planning to purchase a house in the near future. Claimant further asserted that on September 19, 1994, on the advice of Uchida, she invested \$37,775 in Alliance North American Government Trust B ("Alliance"). Claimant also asserted that Uchida described this investment as a safe "Government Fund". Claimant contended that neither a prospectus nor any literature about Alliance were ever sent to her by the respondents. Claimant contended that Alliance carried a high degree of risk. Claimant further contended that in January 1995 she was told by Uchida that she had lost \$9,000 on her investment. Claimant also contended that in November 1995 she liquidated her Alliance shares for a net of \$28,664 and that she had received cash dividends totalling \$2,950.00.

Respondents Crowell, Weedon & Co. and Tsutomu Uchida through their representative and in-house counsel, Paul M. Foster, Esq., maintained that Uchida "prospected" Claimant and on March 15, 1994 Claimant transferred \$47,491.04 to Crowell that was invested in a money market fund and a tax exempt bond fund. Respondents further maintained that Uchida recommended Alliance as Claimant told him that she wanted a higher return on her investment. Respondents contended that Alliance did decline but that it continued to pay dividends.

Respondents further contended that Uchida advised claimant to hold Alliance and that it did substantially recover its losses. Respondents also contended that they never misrepresented the investment or acted contrary to Claimant's instructions and investment objectives. Respondents maintained that they were not negligent and also maintained that the loss was the result of extraordinary market forces beyond their control.

RELIEF REQUESTED

Claimant Linda Matsumoto requested \$6,161.00 in actual damages, plus interest and reasonable attorney fees.

Respondents Crowell, Weedon & Co. and Tsutomu Uchida requested that no monetary award be made to the Claimant.

AWARD

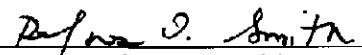
Pursuant to Section 10302 of the NASD Code of Arbitration Procedure, a single Public Arbitrator, Delores I. Smith, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant Linda Matsumoto on August 20, 1996, by Respondent Crowell Weedon & Co. on October 22, 1996 and by Respondent Tsutomu Uchida on October 8, 1996.

And, the Arbitrator, having considered the proof of the parties has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Respondents Crowell, Weedon & Co. and Tsutomu Uchida are jointly and severally liable and shall pay to Claimant Linda Matsumoto \$6,161.00 in actual damages.
2. The parties shall bear their respective costs.
3. All other relief requests are denied.
4. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers Regulation, Inc. by the Claimant Linda Matsumoto shall be retained by the NASD Regulation, Inc. Respondents Crowell, Weedon & Co. and Tsutomu Uchida are jointly and severally liable and shall pay to Claimant Linda Matsumoto \$150.00 as reimbursement of the filing fee.

AFFIRMATION

I **Delores I. Smith**, do hereby affirm upon by oath as arbitrator that I am the individual described herein, and who executed this instrument, which is my oath and award.


Delores I. Smith

Date of Decision: February 20, 1997