

AWARD

NASD Regulation, Inc. Office of Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

George and Norma Gabrielson

and

96-05352

Name of Respondent

Titan Value Equities Group, Inc.

Robert Dean Johnson

REPRESENTATION OF PARTIES

George and Norma Gabrielson ("Claimants") appeared *pro se*.

Titan Value Equities Group, Inc. ("Respondent Titan") and Robert Dean Johnson ("Respondent Johnson") were represented by David P. Pearson, Esq., Winthrop & Weinstine, P.A., St. Paul, Minnesota.

CASE INFORMATION

The Statement of Claim was filed on or about November 20, 1996. Submission Agreements of Claimants George and Norma Gabrielson were signed on November 20, 1996.

Statement of Answer was filed by Respondents Titan Value Equities Group, Inc. and Robert Dean Johnson on or about February 11, 1997. Submission Agreement of Respondent Titan Value Equities Group, Inc. was signed on January 20, 1997 by Steven K. McGinnis.

HEARING INFORMATION

The hearing was held on Thursday, August 7, 1997 in Minneapolis, Minnesota for a total of two (2) sessions.

CASE SUMMARY

Claimants alleged that they invested in a variable annuity, in a managed portfolio of mutual fund investments in two variable annuities and also purchased a limited partnership interest based on

Respondent Johnson's recommendations. It was also alleged that these investments were unsuitable for them in light of their investment objectives and investment history. Claimants further alleged that Respondent Johnson failed to inform them about the risks associated with these investments.

Respondents Titan and Johnson denied the allegations set forth in the Statement of Claim. Respondents specifically stated that Respondent Johnson obtained information about the Claimants investment history, investment objectives and risk tolerance and made suitable investment recommendations to them.

RELIEF REQUESTED

Claimants requested an award in the amount of \$17,208 in compensatory damages and \$30,000 in punitive damages.

Respondents requested that the claims asserted against them be denied in their entirety, that no damages be awarded to Claimants, and that they be awarded their costs and attorneys' fees.

OTHER ISSUES CONSIDERED & DECIDED

Respondent Robert Dean Johnson did not file with the NASD Regulation, Inc. Office of Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to Rule 10301 of the NASD Code of Arbitration Procedure (the "Code") and having answered the claim, appeared and testified at the hearing is bound by the determination of the arbitration panel on all issues submitted.

Brack Stanford & Associates, Inc. was originally named as a Respondent in this matter. Brack Stanford & Associates, Inc. not being a member of the NASD is not required to submit to the jurisdiction of the arbitration panel and refused to submit to the jurisdiction of the NASD.

National Investment Advisors, Inc. was originally named as a Respondent in this matter. National Investment Advisors, Inc. not being a member of the NASD is not required to submit to the jurisdiction of the arbitration panel and refused to submit to the jurisdiction of the NASD.

At the conclusion of the Claimants' presentation of their case, the claims asserted in this matter regarding the investment in Skandia were withdrawn.

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 the 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:

1. The claims asserted in this matter shall be and hereby are dismissed and denied in their entirety.
2. Each party shall bear its own costs, expenses and fees, including but not limited to, attorneys' fees incurred in this matter not specifically enumerated herein.

FORUM FEES

Forum fees are calculated at the rate of \$400 per hearing session and \$300 for each pre-hearing conference, if any. There were two (2) sessions x \$400 = \$800 in forum fees. Pursuant to Rule 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 Rule 10332(c) of the NASD Code of Arbitration Procedure, the NASD Regulation, Inc. Office of Dispute Resolution shall **retain** the non-refundable filing fee in the amount of \$120 and shall **retain** as forum fees the hearing session deposit in the amount of \$400 previously deposited with the NASD Regulation, Inc. Office of Dispute Resolution by the Claimant George and Norma Gabrielson. Respondent Titan Value Equities Group, Inc. shall be and hereby is liable for and shall pay to the NASD Regulation, Inc. Office of Dispute Resolution the sum of \$400 as the balance due for forum fees.

Pursuant to Rule 10333 of the NASD Code of Arbitration Procedure, the NASD Regulation, Inc. Office of Dispute Resolution shall **retain** the non-refundable member surcharge in the amount of \$200. **Fees are payable to the NASD Regulation, Inc. Office of Dispute Resolution.**

Dated:

/s/ Thomas J. Gmeinder, Esq.

August 7, 1997

Thomas J. Gmeinder, Esq.

Public Arbitrator, Presiding Chair

/s/ Robert R. Biglow, Esq.

August 7, 1997

Robert R. Biglow, Esq.

Public Arbitrator

/s/ Roger George Lindquist

August 7, 1997

Roger George Lindquist

Industry Arbitrator