

NASD REGULATION, INC. AWARD

Office of Dispute Resolution

In the Matter of the Arbitration Between

Names of Claimants

Joseph and Edna Malamut

Case No. 98-05590

Names of Respondents

American Trust Securities Corp.
Laurence Winstanley
Donald Wasserman

REPRESENTATION OF PARTIES

For Claimants: Arnold Y. Steinberg, Esq. of the law firm of Arnold Y. Steinberg, P.C., Fort Lauderdale, Florida.

For Respondent Donald Wasserman ("Wasserman"): Russell L. Forkey, Esq. of the law firm of Russell L. Forkey, P.A., Fort Lauderdale, Florida.

For Respondents American Trust Securities Corp. ("ATSC") and Laurence Winstanley ("Winstanley"): Laurence Winstanley, President and CEO of ATSC.

CASE INFORMATION

Statement of Claim filed: December 17, 1996 and amended: August 21, 1997.
Claimants' Submission Agreement signed: December 10, 1996.

Statement of Answer filed by Respondent Wasserman: January 15, 1997. Respondent Wasserman's Submission Agreement signed: October 22, 1997.

Respondents ATSC and Winstanley did not respond to the claims nor file executed Submission Agreements.

HEARING INFORMATION

Telephonic pre-hearing conferences were conducted on December 30, 1997 and January 23, 1998 with the full panel presiding.

The evidentiary hearing was conducted on June 29, 1998, in Fort Lauderdale, Florida lasting two sessions.

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CASE SUMMARY

Claimants alleged the following: Respondents made misrepresentations of material facts and omitted to state material facts to induce the Claimants to make purchases of limited partnership units. On December 6, 1990, Claimants signed a Subscription Agreement in which they committed \$80,000.00 to the purchase of 160 units of Datronic Equipment Income Fund XIX, L.P. Claimants purchased the units from C-Wins Investment Group, the predecessor firm of ATSC. Respondent Wasserman was the firm manager and was responsible for compliance for the firm. In July 1996, Claimants received a letter advising them, for the first time, that funds they were receiving from their investment were not interest but a return of capital. Based on Respondents' misrepresentations and omissions, Claimants had also been induced to purchase units of Duval Limited Partnership in 1992. Although they sold that partnership, they incurred a loss of \$10,000.00. Respondents' actions constituted fraud, negligence, unsuitability, and violations of various in-house rules of ATSC.

Respondent Wasserman denied the allegations set forth in the Statement of Claim and specifically asserted the following: For service on Respondents ATSC and Winstanley, Claimants provided the address of Mrs. Winstanley, the non-party wife of Respondent Winstanley. Mrs. Winstanley asserted to the Claimants that she had not spoken to Respondent Winstanley in over a year, had never been an officer of ATSC, and had never been licensed or held any management position with ATSC. When Mrs. Winstanley received the Statement of Claim in this matter, she identified Respondent Wasserman as both the Branch Manager of ATSC and as the registered representative who sold the Claimants the subject investments. Based on Mrs. Winstanley's representations, Claimants amended their claims to include Wasserman as a Respondent in this case. Wasserman does not know the Claimants, has never spoken to the Claimants, and has no knowledge relative to the sale of the investments in question.

RELIEF REQUESTED

Claimants requested an award of compensatory damages in the amount of \$90,000.00 plus interest, punitive damages, and attorney's fees.

Respondent Wasserman requested that the claims against him be dismissed and that, as a result of the groundless claims, he be awarded his fees and expenses, including attorneys' fees, forum fees, and all other costs of these proceedings.

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1. Claimants are assessed the sum of \$1,000.00 for which NASD Regulation, Inc. shall retain the \$500.00 previously deposited by Claimants in partial satisfaction thereof, leaving a balance due of \$500.00.
2. Respondents ATSC and Wasserman are assessed, jointly and severally, the sum of \$1,000.00 which shall be paid to NASD Regulation, Inc.

OTHER FEES

Pursuant to Rule 10332 of the Code, Claimant has paid to NASD Regulation, Inc. the \$150.00 claim filing fee.

Pursuant to Rule 10333 of the Code, Respondent ATSC shall pay to NASD Regulation, Inc. the \$300.00 past due member surcharge which was previously invoiced.

Fees are payable to NASD Regulation, Inc.

Concurring Arbitrators' Signatures

/s/

Leonard H. Wolf, Esq.
Public Arbitrator, Presiding Chair

/s/

Frank G. Brennan
Public Arbitrator

/s/

Andrew Bartfay
Industry Arbitrator

Date of Decision: 8-4-98