

Award
NASD Regulation, Inc.

In the Matter of the Arbitration Between

Names of Claimants

Morris and Lillian Teitel

Case No. 99-02785

Names of Respondents

**First Union Brokerage Services, Inc.
Cindy Lee Sachs**

REPRESENTATION OF PARTIES

For Morris and Lillian Teitel, hereinafter collectively referred to as "Claimants": Louis Teitel, Esq. of Dunnington, Bartholow & Miller LLP, New York, New York.

For First Union Brokerage Services, Inc. ("First Union") and Cindy Lee Sachs ("Sachs"), hereinafter collectively referred to as "Respondents": Elizabeth A. Jerdonek, Esq. of Ulmer and Berne LLP, Cleveland, Ohio.

CASE INFORMATION

Statement of Claim filed on: June 15, 1999.

Claimants signed the Uniform Submission Agreement on: May 25, 1999.

Joint Statement of Answer filed by Respondents First Union and Sachs on: October 6, 1999.

Respondents First Union and Sachs did not file with NASD Regulation, Inc. executed Uniform Submission Agreements.

CASE SUMMARY

Claimants alleged that they are seeking recovery of damages which they suffered in connection with the sale of fifty (50) Anderson Economic Development Bonds ("Anderson Bonds") in their account. Claimants maintained that the damages they suffered were as a result of the deceitful and/or negligent practices perpetrated by Respondents. Claimants asserted the following causes of action: Breach of fiduciary duty; breach of other contractual obligations and professional duties to provide competent professional services in accordance with industry customs, practices and standards as well as policies and procedures, violations of the rules and regulations of the NASD, common law, statutory law of New York and, federal law; making and effecting unauthorized and discretionary trades in Claimants' account; common law fraud; and, failure to supervise.

Unless specifically admitted in their Joint Statement of Answer, Respondents denied the allegations of wrongdoing contained in the Statement of Claim and asserted the following

Unless specifically admitted in their Joint Statement of Answer, Respondents denied the allegations of wrongdoing contained in the Statement of Claim and asserted the following defenses: Claimants' liability theories must be rejected as a matter of law because: (1) Claimants directed the sale of the 50 Anderson Bonds with full knowledge of all material facts and they cannot now complain about the market price at which they chose to sell; (2) Respondents, in discharging their duties, if any, to Claimants, acted in good faith and exercised at least that degree of care, diligence and skill which ordinarily prudent persons would exercise in similar circumstances and like positions; (3) at all times herein, Claimants were advised that the Anderson Bonds were in default and were being traded at a deep discount; (4) to the extent that any loss was incurred as a result of the sale of Claimants' 50 Anderson Bonds, such loss was the result of unforeseen market fluctuation and was within the risks assumed.

RELIEF REQUESTED

Claimants requested damages in the amount of approximately \$8,592.75 (the difference between the amount Claimants received and the amount they were led to believe they would receive for the sale of the 50 Anderson Bonds); interest; costs of this proceeding, including reimbursement of the filing fee and forum fees; reasonable attorneys' fees; and, such other relief deemed appropriate and equitable by the arbitration panel.

Respondents requested that Claimants' claims be rejected; that no damages be awarded to Claimants; and, that all costs and forum fees be assessed against Claimants.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent First Union and Sachs did not file with the NASD Regulation, Inc. Office of Dispute Resolution properly executed submissions to arbitration but are required to submit to arbitration pursuant to the Code of Arbitration Procedure (the "Code") and, having answered the claim, appeared and testified at the hearing, are bound by the determination of the Panel on all issues submitted.

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.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents First Union and Sachs are found not liable and, therefore, all claims against them are hereby denied.
2. Claimants shall pay to Respondents attorneys' fees in the amount of \$500.00 pursuant to Cassidy vs. Merrill Lynch, 25 FL Law Weekly D 273.
3. Claimants' requests for interest, costs and attorneys' fees are hereby denied.

4. All other requests for relief not specifically addressed herein are denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Regulation, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$75.00

Forum Fees and Assessments

The Arbitrator assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrator, including a pre-hearing conference with the arbitrator, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with the sole arbitrator x \$250.00 = \$250.00

Pre-hearing conference date: February 7, 2000 1 session

Two (2) Hearing sessions x \$250.00 = \$500.00

Hearing Date: March 31, 2000 2 sessions

Total Forum Fees = \$750.00

The Arbitrator has assessed forum fees of \$575.00 to Claimants.

The Arbitrator has assessed forum fees of \$175.00, jointly and severally, to Respondents First Union and Sachs.

Fee Summary

Claimant be and hereby is solely liable for:

Initial Filing Fee = \$ 75.00

Forum Fees = \$575.00

Total Fees = \$650.00

Less payments = \$450.00

Balance Due NASD Regulation, Inc. = \$200.00

Respondent First Union be and hereby is solely liable for:

Member Fees = \$300.00

Total Fees = \$300.00

Less payments = \$300.00

Balance Due NASD Regulation, Inc. = \$ 0.00

Respondents First Union and Sachs be and hereby are jointly and severally liable for:

Forum Fees = \$175.00

Total Fees = \$175.00

Less payments = \$ 0.00

Balance Due NASD Regulation, Inc. = \$175.00

All balances are due and payable to NASD Regulation, Inc.

Arbitrator's Signature

A handwritten signature in cursive script that reads "Donald A. Edwards". The signature is written in dark ink and is positioned above the printed name and title.

Donald A. Edwards
(Sole Public Arbitrator)

Date of Decision: May 10, 2000