

AWARD**NASD Regulation, Inc.**

In the Matter of the Arbitration Between**Name of Claimant****David A. Dugan****NASD CASE NO. 97-05663****Name of Respondent****Aragon Financial Services, Inc.**

REPRESENTATION**For Claimant: Jeffrey P. Coleman, Esq. of Jeffrey P. Coleman, P.A., Clearwater, Florida.****For Respondent: Scott L. Warfman, Esq. of Scott L. Warfman, P.A., Miami, Florida.****CASE INFORMATION****Statement of Claim filed on December 3, 1997. Claimant's Submission Agreement signed on December 1, 1997.****Respondent's Answer and Affirmative Defenses filed on April 2, 1998. Respondent's Submission Agreement signed on January 30, 1998 by Douglas L. Lish, President of Aragon Financial Services, Inc. ("Aragon").****HEARING INFORMATION****On May 7 and May 27, 1998, telephonic pre-hearing conferences lasting one session each were conducted with the arbitration panel (the "Panel"). On October 21 and October 23, 1998, telephonic pre-hearing conferences lasting one session each were conducted with the Chairperson of the Panel. On November 2, 3 and 4, 1998, in Tampa, Florida, hearings lasting six sessions were conducted with the Panel.****CASE SUMMARY****Claimant ("Mr. Dugan") alleged the following: Mr. Dugan entrusted approximately \$75,000.00 of his assets to Gail Griseuk, a registered representative for Aragon. On or about April 27, 1992, Mr. Dugan purchased \$15,000.00 of Carlisle Asher Management Co. Units, through Aragon. On or about October 21, 1992, Mr. Dugan purchased \$15,000.00 of Continental Capital Income Fund I, a limited partnership, through Aragon. On or about October 18, 1992, Mr. Dugan purchased \$20,000.00 of St. Louis Leasing Corp. Arch Equipment Leasing Participation 2193i, through Aragon. On or about December 21, 1992, Mr. Dugan purchased**

\$25,000.00 of St. Louis Leasing Corp. Arch Equipment Leasing Participation 1392i, through Aragon. All of these investments have dropped significantly in value and Mr. Dugan will sustain serious losses in connection with his purchase of these investments. Mr. Dugan maintains that these investments were wholly unsuitable in light of his financial position, objectives and goals. Mr. Dugan further maintains that the subject investments were misrepresented to him as being safe and would be able to provide him with the income he would need for his retirement.

Respondent alleged that of the four investments which form the subject of this claim, only three were purchased through the Respondent broker-dealer, Aragon:

1. October 21, 1992 - \$15,000 - Continental Capital Income Fund;
2. December 21, 1992 - \$15,000 - St. Louis Leasing Corp.; and
3. October 15, 1993 - \$20,000 - St. Louis Leasing Corp.

Respondent asserted that it is not liable for any losses that the Claimant may have incurred because Mr. Dugan understood and knowingly undertook the risks associated with these investments. Respondent maintained that the investments were suitable for the Claimant in light of his age, work experience and net worth of over \$250,000.00. Respondent further asserted that given the income which the Claimant derived from these investments, and their present value, the actual losses are less than \$30,000.00.

RELIEF REQUESTED

Claimant requested total compensatory damages of \$96,486.60 including pre-award interest, plus punitive damages in the amount of \$50,000.00, all costs, expenses and disbursements, and such other relief as the Panel deemed just and proper.

Respondent requested that the Statement of Claim be dismissed with prejudice, that it be awarded its costs incurred in defending this action, and that the Panel award all other necessary, equitable and appropriate relief as is indicated by the circumstances of this case.

OTHER ISSUES CONSIDERED & DECIDED

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 originals remain on file with NASD Regulation, Inc.

AWARD

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

1. Respondent is found liable and shall pay to Claimant total compensatory damages in the sum of \$63,456.00, inclusive of pre-award interest.

2. The following contracts shall be transferred from the name of David A. Dugan to the name of Aragon Securities, Inc.:

- a) \$15,000.00 Continental Capital Income Fund I, dated October, 1992;
- b) \$25,000.00 St. Louis Leasing Corp., dated December, 1992; and,
- c) \$15,000.00 St. Louis Leasing Corp., dated October, 1993.

3. All other claims for relief, including Claimant's request for punitive damages and the parties' requests for costs, are denied.

FORUM FEES

Pursuant to Rule 10332(c) of the Code of Arbitration Procedure (the "Code"), the Panel has assessed forum fees in the amount of \$6,600.00 (6 sessions x \$750.00, plus 2 pre-hearing conferences with the Panel x \$750.00 and 2 pre-hearing conferences with the Chairperson x \$300.00) as follows:

1. Claimant is hereby assessed the sum of \$3,300.00 for which NASD Regulation, Inc. shall retain the \$750.00 hearing session deposit previously paid by Claimant in partial satisfaction thereof, leaving a balance due in the amount of \$2,550.00.

2. Respondent is hereby assessed the sum of \$3,300.00.

Fees are payable to the NASD Regulation, Inc., Office of Dispute Resolution.

OTHER FEES

Pursuant to Rule 10332(a) of the Code, Claimant has paid to NASD Regulation, Inc. the \$200.00 claim filing fee.

Pursuant to Rule 10333 of the Code, Respondent has paid to NASD Regulation, Inc. the \$1,500.00 member surcharge previously invoiced.

Concurring Arbitrators' Signatures
Name

Public/Industry

 /s/
Beverly S. Gordon, Esq.
Chairperson

Public

 /s/
Ina M. Alexander

Public

/s/
Alison Hardage

Industry

Date of Decision: December 16, 1998

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