

NASD REGULATION, INC. AWARD

NASD Regulation, Inc.

In the Matter of the Arbitration Between

Name of Claimant(s)

Robert & Kathryn Jackson
Robert Jackson & Kathryn Jackson
Living Trust

96-02474

Name of Respondent(s)

Sunpoint Securities, Inc.
Gail Ann Griseuk-Gentry
T.E.I. Strategies, Inc.

REPRESENTATION

For Claimants Robert and Kathryn Jackson ("the Jacksons") and the Robert Jackson and Kathryn Jackson Living Trust ("the Trust"): Jeffrey P. Coleman, Esq. of Bonner, Hogan, Coleman & Dvornik, P.A., Clearwater, Florida.

For Respondent Sunpoint Securities, Inc. ("Sunpoint"): Frederick C. Summers, III, Esq. of the law office of Frederick C. Summers, III, Esq., Dallas, Texas.

Respondents Gail Ann Griseuk-Gentry ("Gentry") and T.E.I. Strategies, Inc. ("TEI") did not appear.

CASE INFORMATION

Statement of Claim filed: June 10, 1996. Claimants' Submission Agreements signed on: May 22, 1996.

Statement of Answer filed by Respondent Sunpoint on August 22, 1996. Respondent Sunpoint's Submission Agreement signed on: July 18, 1996 by William Perry on behalf of Sunpoint.

Respondents Gentry and TEI failed to file Answers or sign Submission Agreements as required by Rules 10301 and 10314 of the NASD Code of Arbitration Procedure ("the Code")(see "Other Issues").

HEARING INFORMATION

On November 6, 1996, February 12, 1997 and April 18, 1997 telephonic pre-hearing conferences were conducted with the full panel.

On April 22, 23 and 24, 1997 in Ft. Lauderdale, Florida, hearings lasting six sessions were conducted.

CASE SUMMARY

Claimants alleged that Respondents were liable for misrepresentation, unsuitability, lack of supervision and control, and lack of due diligence in connection with the purchase and sale of certain limited partnerships. Claimants maintained that Respondents had a duty to prevent any and all unlawful marketing practices which occurred in the branch office where Claimants accounts were maintained and that their failure to do so resulted in serious losses to the Claimants.

Respondent Sunpoint denied all allegations of wrongdoing and alleged that the investments complained of were suitable for Claimants. Respondent Sunpoint maintained that Mr. Jackson was a sophisticated investor who obtained an accounting degree from the University of Pennsylvania and that Claimants had substantial prior stock trading experience and met the minimum financial suitability standards required for each limited partnership investment. Respondent Sunpoint next maintained that Claimants had a substantial liquid net worth of which only 25% was invested in limited partnerships with the remainder in liquid assets. Respondent Sunpoint further alleged that Claimants actually made money when the tax credits generated by one investment were taken into consideration. Respondent Sunpoint further alleged that this particular investment was suitable for Claimants in light of Claimants' representation that they were in the 28% tax bracket.

Respondent Sunpoint further alleged that Claimants received all pertinent documentation, including prospectuses and private placement memoranda which fully and accurately disclosed all material facts. Respondent Sunpoint next maintained that Mr. Jackson was aware of the risks involved and that the claims brought under Section 517.211 of the Florida Statutes were barred by applicable statutes of limitations.

Respondents Gentry and TEI failed to file Answers.

RELIEF REQUESTED

Claimants requested damages in the amount of \$142,674.00 inclusive of interest, plus punitive damages, costs, expenses and disbursements.

Respondent Sunpoint requested dismissal of the claim plus costs.

OTHER ISSUES CONSIDERED & DECIDED

Pursuant to Rule 10101 of the Code the arbitration panel found subject matter jurisdiction over this controversy. The arbitration panel further found that Respondent Gentry was a person associated with a member of the NASD at the time the controversy arose and that Respondent TEI was a member of the NASD at the time the controversy arose. Consequently, the arbitration panel found personal jurisdiction over Respondents Gentry and TEI pursuant to Rule 10301 of the Code.

In view of the above, the arbitration panel found that Respondents Gentry and TEI were required to file with the NASD Statements of Answer and properly executed Submission Agreements pursuant to Rule 10314(b) of the Code. In this regard the arbitration panel found that the Statement of Claim was properly served upon Respondents Gentry and TEI pursuant to Rule 10314(a) of the Code.

In addition, in accordance with Rules 10310, 10315 and 10318 of the Code, the arbitration panel found that the NASD provided Respondents Gentry and TEI with "due notice" of the hearing conducted in this matter as evidenced in the record of proceedings. The arbitration panel, therefore, determined to proceed with the hearing without Respondents Gentry and TEI present.

The parties that appeared at the hearing 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 the NASD.

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. Respondents Sunpoint, Gentry and TEI are hereby found liable, jointly and severally, and shall pay to Claimants the amount of \$75,000.00 inclusive of interest.
2. Respondents Sunpoint, Gentry and TEI are also found liable, jointly and severally, for punitive damages and shall pay to Claimants the further amount of \$50,000.00. The panel has determined that punitive damages are appropriate in this matter based on the egregious conduct of Respondent Gentry and the lack of supervision on the part of Sunpoint. The panel bases its authority to award punitive damages on the Federal Arbitration Act and the case law interpreting the Federal Arbitration Act.
3. Respondents Sunpoint, Gentry and TEI are also found liable, jointly and severally, for costs of Claimants' expert witness and shall pay to Claimants the further amount of \$3,000.00.

4. Respondents Sunpoint, Gentry and TEI are also found liable, jointly and severally, and shall pay to Claimants the further amount of \$750.00 as a reimbursement of the hearing session deposit previously paid by Claimants to NASD Regulation, Inc.

FORUM FEES

Pursuant to Rule 10332(c) of the Code of Arbitration Procedure, the panel has assessed forum fees in the amount of \$6,750.00 (three pre-hearing conferences with the full panel x \$750.00 plus six sessions x \$750.00 per session).

1. Respondents Sunpoint, Gentry and TEI are hereby assessed \$6,750.00, jointly and severally, for which NASD Regulation, Inc. shall retain the \$750.00 previously deposited by Claimants in partial satisfaction thereof, leaving a balance due to NASD Regulation, Inc. in the amount of \$6,000.00.
2. Respondents Sunpoint, Gentry and TEI are also hereby assessed, jointly and severally, the \$750.00 postponement fee for the postponement of the February 13 and 14, 1997 hearing dates.

Fees are payable to NASD Regulation, Inc.

Concurring Arbitrators' Signatures
Name

 / s /
Robert J. Hyman, Esq.

Public/Industry

Public/Chairman

 / s /
Camille Besold

Public

 / s /
Ralph H. Emer

Industry

Date of Decision: 6-19-97