



Case study: Frost Brown Todd helps investor recoup millions in settlement over TIC properties

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Problem

Our client was an elderly widow who had invested the sales proceeds from her primary asset, a \$3.5-million office property located in downtown Los Angeles, with two Ameriprise brokers. These brokers convinced our client to reinvest the sales proceeds in a 1031 exchange for other real property, so as to avoid capital gains tax and ordinary income (recapture) tax on the sale of the office building. The Ameriprise brokers suggested three TIC properties (tenancy in common properties), which were real estate investment vehicles packaged in the early 2000's.

The problem was that these TIC properties were all highly leveraged; thus, when the real estate markets crashed in 2008, the investments lost virtually all of their value. Our client's investment declined from \$3.5 million down to zero in a little over two years after her investment in the TIC properties.

Solution

Our client retained Frost Brown Todd (FBT) to bring a FINRA arbitration against Ameriprise and its two brokers. FBT's trial team, led by [Barry Hunter](#), contended in its arbitration demand that the TIC investment was highly unsuitable for an elderly woman with little other assets due to its high leverage and risk. Ameriprise defended on the grounds that the TIC investments were the only suitable investments available to our client that would have enabled her to achieve the 1031 benefits she sought without requiring her to take on management responsibilities for newly acquired real estate.

FBT's trial team investigated 1031 exchanges, however, and identified commercial triple net leases as an available alternative to the highly leveraged TIC investments, which alternative would have also enabled our client to have effectuated a 1031 exchange without

any management responsibilities over the newly acquired real estate and without taking on the leverage and risk of the TIC investments. Indeed, had our client acquired triple net lease commercial property, rather than her highly leveraged TIC properties, she would have avoided over \$2,000,000 in losses. Based on this fact and FBT's ability to demonstrate that the commissions earned by Ameriprise on the TIC investments approximated 6% of the investment amount, Ameriprise was willing to settle the claims.

Client Benefit

Ameriprise paid our client nearly \$2 million in settlement prior to the arbitration hearing.

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