

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Alice Kohler

Claimant

vs.

Guidcor Financial, Inc.  
Stephen Smith

Respondents

CASE NO. 87-01296

Heard before:

Alexandra Kwoka  
William Newsome  
Lee Swiff

**SUMMARY OF ISSUES**

This case was filed on August 20, 1987. Claimant alleged Respondents invested her funds in a series of speculative index options and common stock transactions which were unsuitable for her financial position and investment objectives. Claimant alleged Respondents breached their fiduciary duty, fraudulently misrepresented the status of her account, and that Respondent Guidcor failed to supervise Respondent registered representative. Respondents denied all allegations, and asserted that the investments were made at the request of Claimant's now-deceased husband, who was a sophisticated investor who wanted to make speculative investments.

**DAMAGES AND RELIEF REQUESTED**

Claimant requested damages of \$111,240.53, return of commissions in the amount of \$28,901.46, interest on these amounts at 10% from March 30, 1986, to the present, punitive damages of at least \$25,000.00 attorney's fees and costs. Respondents requested dismissal of all claims, and on award of their attorneys' fees and costs.

**DAMAGES AND RELIEF AWARDED**

On August 3 and 4, 1988 and December 12, 1989, in San Diego, California, the undersigned arbitrators heard the controversy in six (6) sessions between the parties as set forth in submissions to arbitration signed by Claimant on July 10, 1987, Guidcor Financial on September 24, 1987, and by Respondent Stephen Smith on December 12, 1989. The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has determined in full and final resolution of the issues submitted for determination as follows:

1. Respondents are jointly and severally liable for an shall pay to Claimant damages in the amount of \$111,240.53.

2. The claim for punitive damages is denied.

3. The parties shall each bear their respective costs including attorneys' fees.

4. Pursuant to Section 43 of the National Association of Securities Dealers, Inc. ("NASD") Code of Arbitration Procedure, the NASD shall retain the \$500.00 filing fee previously deposited by the Claimant.

#### **OTHER ISSUES**

Respondents Guildcor and Smith are hereby assessed forum fees, jointly and severally, in the amount of \$2,500.00, payable to the NASD through its representative.

**DATE SERVED: 12/15/89**