

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In The Matter of the Arbitration Between :
Mary Ruth Wilson and Leslie Wilson :
Claimants : Case #88-01074
vs. : AWARD
The Stuart-James Company, Inc. and Hiry :
B. West III :
Respondents :

CASE SUMMARY

Claimants Mary Ruth Wilson and Leslie Wilson alleged that Respondent Hiry West engaged in excessive and unauthorized trading in the Claimant's account. Claimants alleged that they were unsophisticated investors and that Respondent Hiry West willfully defrauded and deceived the Claimants by purchasing speculative stocks which were unsuitable for their investment objectives. Claimants further contended that Respondent Hiry West employed high pressure sales tactics and made false and misleading statements to the Claimants. Claimants alleged that Respondent Stuart-James Co., Inc. failed to properly supervise and control their employee.

Respondents Stuart-James & Co., Inc. and Hiry West denied all the allegations made against them. Respondents first maintained that no private cause of action exists for violations of NASD rules. Respondents further contended that the Claimants understood to risks involved in dealing with "penny stocks", and knowingly and voluntarily accepted these risks. Respondents contended that on many occasions the Claimants received prospectuses, which detailed the risks involved with the stocks. Moreover, Respondents contended they always acted properly and that the Claimants voluntarily authorized all transactions.

RELIEF REQUESTED

Claimants Mary Ruth Wilson and Leslie Wilson requested actual damages of \$100,000.00, plus punitive damages. Respondents Stuart-James Co., Inc. and Hiry B. West III requested dismissal of the claim in its entirety, plus costs.

AWARD

On November 29, 1989, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimants Mary Ruth Wilson and Leslie Wilson on February 25, 1988, and by Respondent Hiry B. West III on March 30, 1989 and by Respondent Stuart-James & Co., Inc. on April 5, 1989. The hearing was held at the offices of the National Association of Securities Dealers, Inc. in New York City, NY, and consisted of one (1) hearing session. 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. Claimant Leslie Wilson had no dealings with the Respondents, is owed no monies from the Respondents, and is hereby removed and dismissed from this proceeding.
2. Respondents Stuart-James & Co., Inc. and Hiry B. West III be and hereby are jointly and severally liable and shall pay to the Claimant Mary Ruth Wilson the sum of Four Thousand Three Hundred and Eight Dollars and No Cents (\$4,308.00), inclusive of interest.
3. The parties shall each bear their respective costs including attorney's fees.
4. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$400.00 filing fee previously deposited by the Claimant as cost of the one (1) hearing session conducted in this matter, and Respondents Stuart-James Co., Inc. and Hiry B. West III be and hereby are jointly and liable and shall pay to the Claimant Mary Ruth Wilson the sum of Four Hundred Dollars and No Cents (\$400.00) to offset the filing fee.

CONCURRING ARBITRATORS


RICHARD W. BALDWIN


C. SCOTT BARTLETT


ARNOLD WEINBERG, ESQ.

Dated: January 17, 1990