

89-0239

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Arbitration Matter Between
BEVERLY R. REYNOLDS

v. Claimant

THE STUART-JAMES CO., INC.
AND JOHN SUTTON

Respondents

Case No. 88-02425

CASE SUMMARY

Claimant invested \$50,000 with Respondents. Claimant alleges that Respondents were advised that the funds represented her retirement fund, that the principal was to be preserved and that the funds were to be placed in an IRA Account. Respondents allegedly purchased speculative securities with these funds without the Claimant's Authorization. Upon receipt of the confirmation of these trades, Claimant contacted Respondent and voiced her objection. Claimants allege breach of contract, breach of fiduciary duty, fraud, negligence and violation of various suitability exchange Rules.

Respondents joint Answer replies that Claimant is a sophisticated investor, that she authorized every trade in her account. Respondents allege that the trades were suitable and consistent with the Claimant's investment objectives. Respondents also assert various affirmative defenses including but not limited to laches, waiver and estoppel.

RELIEF REQUESTED

Claimant's Statement of Claim does not specifically set out the actual damages requested but states that they are something under \$50,000. Claimant also requests 12% interest. Respondents seek dismissal of the action.

AWARD

On July 11, 1989 in Denver, Colorado, the Arbitrators heard the controversy between the parties as set forth in the submissions to Arbitration signed by the Claimant, Beverly R. Reynolds on July 6, 1988, Respondent Stuart-James, Co., Inc. by Marc N. Geman on September 8, 1988 and by Respondent, John Sutton, on August 15, 1988.

Having considered the pleadings, testimony and evidence presented at the hearing, the Arbitrators have determined that:

1) The Respondents Stuart-James, Co., Inc. and John Sutton shall be joint and severally liable to the Claimant and shall pay to her the sum of \$14,437.20;

2) Simple interest shall be assessed at 10% per annum beginning March 11, 1988, and continuing up until the time the Award is satisfied.

3) Respondent Stuart-James, Co., Inc., shall have a right of contribution against Respondent John Sutton in the amount of \$7,218.60;

4) The \$400.00 filing fee initially deposited by the Claimant shall be partially refunded to the Claimant in the amount of \$200.00. Respondent, Stuart-James shall be assessed \$100.00 and Respondent John Sutton, shall be assessed \$100.00. These assessments shall be paid directly to the NASD;

5) Attorney's fees shall not be awarded.

Presiding Arbitrators

7/17/89