

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

```
=====+
In the Matter of the Arbitration Between

Douglas A. Lewis
Charlene M. Lewis
                                Claimants

vs.

Gallant Securities, Inc.
Joseph Guccione
Dunhill Securities, Inc.
David Juring and Vernon Bass
                                Respondents
=====+
```

Case #88-02851
AWARD

CASE SUMMARY

Claimants Douglas A. Lewis and Charlene M. Lewis ("Claimants") alleged that Respondent Joseph Guccione ("Guccione") fraudulently managed the Claimants' account in that he executed unauthorized transactions in the Claimants' account, recommended unsuitable transactions, and induced the Claimants to purchase stocks which were contrary to their investment objectives. Claimants also alleged that Respondent Gallant Securities, Inc. ("Gallant") negligently supervised the handling of the Claimants' account. Further, Claimants alleged that Respondent David Juring ("Juring") made misrepresentations to the Claimants regarding stock transactions on which the Claimants relied to their detriment, executed unauthorized transactions and churned the Claimants' account. Finally, Claimants alleged that Respondents Dunhill Investments, Inc. ("Dunhill") and Vernon Bass ("Bass") were negligent in the supervision of the Claimants' account while at Dunhill.

Respondent Gallant contended the Claimants were knowledgeable investors who authorized all transactions with full knowledge of the risks involved. Gallant also asserted a counterclaim in which it alleged the Claimants' claim was frivolous. Respondent Guccione contended the Claimants lost no money while Guccione was handling the Claimants' account, and that the Claimants never complained about the account until certain transactions proved to be unprofitable. Guccione also asserted a counterclaim in which he alleged the

Claimants had no good faith basis for their claims against Guccione and therefore should be held liable for the costs incurred by Guccione in defending against these claims. Respondents Dunhill and Bass denied all allegations made against them, and contended that they always acted properly.

Respondent Juring did not answer nor appear in this proceeding, and Respondents Dunhill and Bass did not appear at the hearing.

RELIEF REQUESTED

Claimants Douglas A. Lewis and Charlene M. Lewis requested actual damages against Respondents Gallant and Guccione of \$400,000.00, plus punitive damages and costs. Claimants requested actual damages against Dunhill, Juring and Bass of \$250,000.00, plus punitive damages and costs. Respondent Gallant requested dismissal of all claims made against him plus, pursuant to his counterclaim, his costs in defending this action. Respondent Guccione requested dismissal of all claims made against him plus, pursuant to his counterclaim, his costs, including attorney's fees, in defending this action. Respondents Dunhill and Bass requested dismissal of all claims made against them. Claimants requested the dismissal of all counterclaims made against them.

AWARD

On August 8, 1990, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimants Douglas A. Lewis and Charlene M. Lewis on August 31, 1988, by Respondent Joseph Guccione on July 24, 1989, by Respondent Dunhill Investments, Inc. on January 12, 1989 and not by Respondents Gallant Securities, David Juring, and Vernon Bass as is required by Section 12 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure. The initial claims was filed on September 8, 1988. The hearing was conducted in Albany, New York and consisted of three (3) hearing sessions. The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at and after the hearing, has determined in full and final resolution of the issues submitted for determination as follows:

1. Pursuant to the by-laws of the National Association of Securities Dealers, Inc., the arbitrators determined that Respondent Gallant Securities, Inc. was required to submit to this arbitration and is, therefore, bound by this panel's rulings and determinations.
2. In accordance with Section 25 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, Respondent David Juring was served with a copy of the pleadings in this matter and provided an opportunity to respond; Respondent Juring did not answer.
3. In accordance with Section 21 and 26 of the Code, Respondent Juring was given notice of the hearing dates and procedures; Respondent Juring did not appear at the hearing.
4. The arbitration panel determined, however, that because a properly executed submission agreement was not submitted, because no answer was ever filed nor appearance made, and because there existed no conclusive proof that Respondent Juring had proper and due notice of these proceedings, there existed no jurisdiction over Respondent Juring. Therefore, all claims against Respondent Juring be and hereby are dismissed in their entirety without prejudice.
5. At the hearing the arbitrators were informed that Respondent Vernon Bass had filed bankruptcy pursuant to Chapter 7 of the U.S. Bankruptcy Code. Therefore, pursuant to the automatic stay provisions of the U.S. Bankruptcy Code, this action was stayed as against Respondent Vernon Bass, and proceeded in Bass's absence without prejudice to the parties.
6. At the hearing, the Claimants made a motion to voluntarily withdraw without prejudice all claims against Respondent Dunhill. The arbitration panel granted this motion.
7. All claims against Respondent Gallant Securities, Inc. be and hereby are dismissed in their entirety with prejudice.

8. All claims against Respondent Joseph Guccione be and hereby dismissed in the entirety with prejudice.
9. All counterclaims against Claimants Douglas A. and Charlene M. Lewis be and hereby are dismissed in their entirety with prejudice.
10. The parties each shall bear their respective costs including attorney's fees.
11. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$1000.00 filing fee previously deposited by the Claimant and the Claimants Douglas A. and Charlene M. Lewis be and hereby are jointly and severally liable and shall pay to the National Association of Securities Dealers, Inc. the sum of One Thousand Dollars And No Cents (\$1,000.00) and Respondent Joseph Guccione be and hereby is liable and shall pay to the National Association of Securities Dealers, Inc. the sum of One Thousand Dollars And No Cents (\$1,000.00), as costs of the three (3) hearing sessions conducted in this matter.

CONCURRING ARBITRATORS



Patrick J. Mackrell



J. Clark Winslow



R. Douglas Paton

DATED: October 2 , 1990