

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Jacqueline S. Sincoff et. al.

88-03599

Name of Respondent(s)

Stifel Nicolaus & Co. Inc.
Richard Naumer

CASE SUMMARY

In a statement of claim filed with the NASD on or about November 18, 1988, Claimant Jacqueline S. Sincoff, individually and as co-trustee with her sister Jean Srenco on behalf of the Jacqueline S. Sincoff Revocable Living Trust ("Sincoff"), alleged that Respondents Stifel Nicolaus & Co., Inc. ("Stifel Nicolaus") and Richard Naumer ("Naumer") were negligent, breached a fiduciary duty owed Sincoff; made a fraudulent misrepresentation and an untrue statement or omission in violation of Section 409.411(a) RSMO. These causes of action were alleged by Sincoff as a consequence of her purchase of 25,000 shares of Stifel Nicolaus stock through Naumer and 15,000 shares of Stifel Nicolaus on margin at another brokerage company. Sincoff alleged that the purchase on margin was inconsistent with her needs and investment objectives. Sincoff further alleged that Naumer personally guaranteed that he would reimburse Sincoff for any loss she sustained as a result of her purchases, that negotiations were proceeding for the sale of Stifel Nicolaus at \$17.00 per share, that the price was firm and that Sincoff would be paid this sum for each share she owned as on December 1, 1987. Shortly after the stock market downturn on October 19, 1987, the price of Stifel Nicolaus stock fell to approximately \$5.00 per share. Sincoff alleged that she contacted Naumer with regard to his guaranty and failed to get any satisfaction.

In a joint statement of answer filed with the NASD on or about March 14, 1989, Stifel Nicolaus and Naumer denied the allegations of the claim and disputed the alleged misstatements attributed to them. Stifel Nicolaus and Naumer did not dispute the investment losses by Sincoff but alleged the losses were the result of uncontrollable market conditions and Sincoff's independent choice to continue to face the risks associated with the investment even after it was made apparent to Sincoff that she should take her profits. Stifel Nicolaus and Naumer alleged that the Stifel Nicolaus stock purchase was suitable and that no conflict of interest existed between Naumer and his employer.

RELIEF REQUESTED

Sincoff requested reimbursement for damages sustained in the amount of \$202,584.58 plus margin interest charged and the interest on the investment Stifel Nicolaus and Naumer requested dismissal of the claims.

AWARD

On Wednesday and Thursday, November 14 and 15, 1990 in St. Louis, Missouri during a hearing lasting a total of three (3) sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on November 17, 1988 by Claimants Jacqueline Sincoff and Jean Srenco on June 22, 1989, by Mark Knott, Senior Vice President, on behalf of Respondent Stifel Nicolaus & Co., Inc. and on July 5, 1989 by Respondent Richard J. Naumer. The parties agreed at the conclusion of the hearing that the panel could execute a handwritten award or counterpart copies and that a conformed copy of the award could be provided to them.

The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has decided in full and final resolution of the issues submitted for determination as follows:

1. The claims asserted by Sincoff against Stifel Nicolaus and Naumer shall be and are hereby dismissed in their entirety;
2. The parties shall each bear their respective costs, expenses and attorney's fees incurred in this matter; and,
3. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the hearing session deposit in the amount of \$750.00 previously deposited with the NASD by the Claimant Jacqueline S. Sincoff. Respondent Stifel Nicolaus & Co., Inc. is assessed and shall pay to the NASD forum fees in the amount of \$2,250.

Arbitrator(s) Signature

11/15/90
Date

11/15/90
Date

11/15/90
Date

George Kasserman, Esq.
George Kasserman, Esq.

William Westphal
William Westphal

Charles A. Seigel, Esq.
Charles A. Seigel, Esq.

Date Served: December 6, 1990