

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

-----  
IN THE MATTER OF THE ARBITRATION BETWEEN :  
James P. Sutton and Mary Sutton :  
Claimants : Case #88-03922  
vs. : AWARD  
Gary Kellman, Elliott Bellen and :  
F.D. Roberts Securities, Inc. :  
Respondents :  
-----

CASE SUMMARY

This proceeding was commenced initially on December 27, 1990 by Claimants James P. and Mary Sutton ("Suttons") against Gary Kelman ("Kelman"), Elliott Bellen ("Bellen") and F.D. Roberts Securities, Inc. ("F.D. Roberts"), and arises out of certain accounts held by Claimants during 1988. Claimants assert that Respondents are liable for certain losses incurred in these accounts while Kelman and Bellen were employed at F.D. Roberts. Specifically, Claimants allege that Respondents committed fraud, negligence and breached their fiduciary duty to Claimants by misrepresenting and omitting certain material facts, by recommending unsuitable investments to Claimants and by failing to disclose the differences in the spread between the Bid and Ask prices for the stocks purchased. The Claimants additionally assert that the Respondents made unauthorized purchases in the Suttons' account and that certain of the stocks sold to the Suttons were not registered as required.

Claimants assert state law claims for fraud, negligence, misrepresentation, breach of fiduciary duty and breach of contract arising out of the accounts. Claimants additionally allege violations of the Securities Act of 1933, the Securities Exchange Act of 1934, the Florida Securities and Investors Protection Act and the Pennsylvania Securities Act of 1972.

Respondents deny any breach of duty and liability owed to Claimants with respect to the accounts. Respondent F.D. Roberts declared bankruptcy and the proceeding was stayed against the firm. Respondents Kelman contends that F.D. Roberts is the sole liable party responsible for any alleged securities violations incurred. Respondent Kelman additionally asserts that Claimant had knowledge and understood the transactions in the account and that the securities recommended to Claimant were consistent with the Suttons stated objectives.

Respondent Bellen asserts that he exercised due diligence in the supervision of Kelman, that the investments met the Claimants' objectives and that he did not engage in "crossing the stock" of the Claimants.

#### RELIEF REQUESTED

The Suttons requested that the Claimants recover compensatory and punitive damages in amount in excess of \$1,000,000.00. The Respondents requests a dismissal of the claim in its entirety.

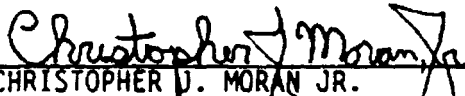
#### AWARD

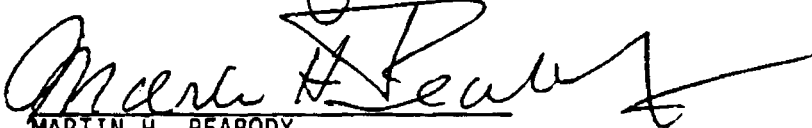
On November 10, 1989 and January 9, 1990, said dates representing four hearing sessions in Atlanta, Georgia, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimants James Sutton and Mary Sutton on December 13, 1988. Respondent Elliott Bellen submitted a statement of answer dated January 5, 1990, did not submit a Uniform Submission Agreement and did not appear at the hearing on January 9, 1990. Respondent Gary Kelman did not submit a Uniform Submission Agreement, however, did submit a statement of answer dated December 19, 1989, and appeared at the hearings. The Respondent F.D. Roberts declared bankruptcy and did not appear at the hearing.

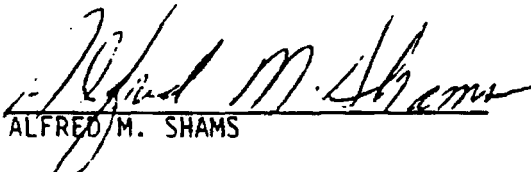
The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has determined in full and final resolution of the Issues submitted for determination as follows:

1. Respondents Gary Kelman and Elliott Bellen are jointly and severally liable and shall pay to Claimants James P. and Mary Sutton the amount of \$131,632.00, such amount representing Claimants' damages.
2. Respondents Gary Kelman and Elliott Bellen are jointly and severally liable to Claimants James P. and Mary Sutton the amount of \$250,000.00, such amount representing punitive damages.
3. Respondents Gary Kelman and Elliott Bellen are jointly and severally liable and shall pay to Claimants James P. and Mary Sutton the amount of \$44,500.00, such amount representing attorney's fees.
4. 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 as costs of the initial hearing session conducted in this matter.

CONCURRING ARBITRATORS

  
CHRISTOPHER J. MORAN JR.

  
MARTIN H. PEABODY

  
ALFRED M. SHAMS

DATED: March 12th, 1990