

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between)
)
RICHARD and MARILYN MANDLER.)
) Claimants.)
) Case #89-00234
vs.) Award
)
J.W. GANT & ASSOCIATES, INC.,)
) Respondent.)
)

Heard before the members of the Arbitration Panel:

H. Steven Holtzman, Esq.
George S. Coit Jr., Esq.
Mr. Ralph Feith

CASE SUMMARY

This claim was filed with the NASD, Inc. on January 30, 1989. The hearing was conducted in Tampa, Florida on June 12, 1990 with a total of two (2) sessions.

Claimants, Richard and Marilyn Mandler ("the Mandlers"), alleged that Respondent, J.W. Gant & Associates, Inc. ("J.W. Gant"), was liable for failure to execute an order to liquidate Claimant's portfolio at the market price and that when the Claimant's stocks were eventually sold, the Mandlers received significantly lower prices than could have been obtained had Respondent executed the order when given.

Respondent alleged that: subsequent to Claimant's first order to sell his entire portfolio, Claimant gave instructions to sell only some of his stock; and Respondent otherwise acted in accordance with Claimants' instructions. Respondent asserted the affirmative defenses of: failure to state a claim; ratification; estoppel; and waiver.

RELIEF REQUESTED

Claimants requested damages in the amount of \$19,740.00 plus interest and other costs. Respondent requested dismissal of the claim.

AWARD

On June 12, 1990, the arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimants on January 18, 1990, and by Respondent on May 3, 1989. 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. The parties have agreed that the Award in this matter may be executed in counterpart copies or that a hand-written, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASD, Inc.
2. Respondent is hereby liable and shall pay to Claimants the amount of Ten Thousand and 00/100 (\$10,000.00) Dollars.
3. Pursuant to Section 43 of the Code of Arbitration Procedure, the arbitrators have assessed the Respondent forum fees in the amount of Eight Hundred and 00/100 (\$800.00) Dollars of which Four Hundred and 00/100 (\$400.00) Dollars shall be paid directly to the Claimants as a return of their filing fee and Four Hundred and 00/100 (\$400.00) Dollars shall be paid to the NASD, Inc. The National Association of Securities Dealers, Inc. shall retain the Four Hundred and 00/100 (\$400.00) Dollars filing fee previously deposited by the Claimant in partial satisfaction of such forum fees.
4. The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding.

OTHER ISSUES

None.

ARBITRATORS CONCURRING

H. Steven Holtzman, Esq.
George S. Coit Jr., Esq.
Mr. Ralph Feith

Dated: July 3, 1990