

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Thomas & Iris McWilliams,  
Claimants

89-00664

Blunt Ellis & Loewi Incorporated,  
Respondent

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CASE SUMMARY

In a claim filed with the NASD on or about March 6, 1989 Thomas R. McWilliams and Iris B. McWilliams alleged that Blunt Ellis & Loewi Incorporated ("BEL") through its employee Mark Lefevre made unsuitable investments in their accounts and made material misrepresentations regarding the activity in the accounts and certain investments in their accounts. Mr. and Mrs. McWilliams also alleged that Mr. Lefevre had led them to believe that he was actively monitoring their accounts. Mr. McWilliams further alleged that BEL through Mr. Lefevre made unauthorized transactions in the account. The McWilliams alleged violations of various State and Federal Securities statutes and common law fraud and breach of contract in addition to violations of 18 USC Sections 1962 and 1964 ("RICO").

In its answer to the claims filed with the NASD on or about June 2, 1990 BEL stated that the transactions in the accounts of claimants were suitable in light of the stated investment objectives. BEL further denied that Mr. Lefevre made any material misrepresentations to claimants and that Mr. Lefevre exercised discretion in the account of Mr. McWilliams. BEL also denied that the claimants were not advised of what a margin account was or how it worked. BEL further denied the allegation that the McWilliams were not informed as to the risks of trading puts and calls.

RELIEF REQUESTED

Mr. McWilliams requested an award in an amount in excess of \$60,231.48 plus costs and fees or in the alternative rescission of his purchases plus costs and attorney's fees. Mrs. McWilliams requested an award in an amount in excess \$20,000.00 plus costs fees or in the alternative rescission of her purchases plus costs and attorney's fees.

Respondent BEL requested that the claims be denied.

#### OTHER ISSUES

Respondent BEL filed a motion to sever the claims of the McWilliams or in the alternative to bifurcate the hearings. After considering the motion and the arguments of the parties the panel decided to deny the motion and proceed with the claims.

#### AWARD

On Tuesday, September 11, 1990, Wednesday, September 12, 1990 and Thursday, September 13, 1990 in Chicago, Illinois during a hearing lasting a total of six (6) sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on February 15, 1989 by Claimants Thomas R. McWilliams and Iris B. McWilliams and on May 31, 1989 by Donald H. Zurliene, Jr. on behalf of Respondent Blunt Ellis & Loewi Incorporated.

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 Claimant Iris B. McWilliams shall be and hereby are denied in their entirety;
2. Respondent Blunt Ellis & Loewi Incorporated shall be and hereby is liable for and shall pay to Claimant Thomas R. McWilliams the sum of Nine Thousand Eight Hundred Dollars (\$9,800.00) as damages incurred in the trading account;
3. No damages are awarded on the claims concerning the IRA and the IRA rollover accounts;
4. The claims asserted under RICO (18 USC Sections 1962 and 1964) shall be and hereby are denied in their entirety;
5. Each party shall bear its own costs and expenses including attorneys fees incurred in this matter not specifically enumerated herein;
6. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall refund the \$750.00 filing fee previously deposited with the NASD by the Claimants. Respondent Blunt Ellis & Loewi shall pay to the NASD the sum of \$4,500.00 as forum fees.

ADDITIONAL FINDINGS

The panel admonishes Blunt Ellis & Loewi Incorporated that its then research recommendations were inadequate and possibly misleading insofar as the total focus of the research recommendations was concerned with the timeliness of the investment. Quality ranking should have been included in the recommendations in order that suitability standards not be compromised.

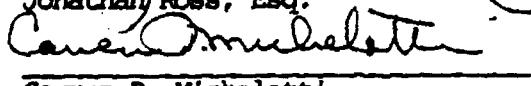
September 17, 1990

  
Richard C. Moenning, Esq.

September 17, 1990

  
Jonathan Ross, Esq.

September 17, 1990

  
Carmen P. Michelotti