



NATIONAL ASSOCIATION OF SECURITIES DEALERS

N.A.S.D. AWARD

Arbitration

National Association
Securities Dealers, Inc.
NASD Financial Center
33 Whitehall Street
New York, N.Y. 10004
FAX (212) 858-4389

In the Matter of the Arbitration Between

Name of Claimant

Wendy Cohen, M.D.

89-01390

Name of Respondents

Robert A. Semon
Eddie A. Muller
Robert Blatt
Jerry Tarulli

REPRESENTATION

For Claimant Wendy Cohen ("Claimant"): Arthur P. Fisch, a sole practitioner.

For Respondent Robert A. Semon ("Semon"): Howard Elisofon, of Phillips, Nizer et al.

For Respondents Eddie A. Muller ("Muller") and Robert Blatt ("Blatt"): David E. Robbins, of Kaufman Gildin et al.

For Respondent Jerry Tarulli ("Tarulli"): he appeared pro se.

CASE INFORMATION

Statement of Claim filed: January 16, 1989; First Amended Statement of Claim filed: July 9, 1990; Second Amended Statement of Claim filed: January 29, 1991; Third Amended Statement of Claim filed: February 15, 1991.
Claimant's Submission Agreement signed on: December 2, 1988.

Statement of Answer filed by Respondent Semon on: August 14, 1989.
Respondent Semon's Submission Agreement signed on: August 10, 1989.

Statement of Answer and Cross-claim filed by Respondent Muller on: March 14, 1991.
Respondent Muller's Submission Agreement signed on: October 30, 1991.

Statement of Answer and Cross-claim filed by Respondent Blatt on: August 8, 1990. Amended Answer filed on: March 14, 1991.
Respondent Blatt's Submission agreement signed on: August 8, 1990.

Statement of Answer filed by Respondent Tarulli on: April 29, 1991.
Respondent Tarulli's Submission Agreement signed on: April 29, 1991.

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HEARING INFORMATION

Pre-Hearing Conference: July 20, 1990/1 session/1 arbitrator.

Hearing Dates/Sessions: October 30, 1991/2 sessions
October 31, 1991/2 sessions
January 15, 1992/2 sessions
January 16, 1992/2 sessions
January 17, 1992/2 sessions.

Hearing Location: NASD, New York City.

CASE SUMMARY

Claimant alleged Respondents executed unauthorized transactions; placed her in unsuitable investments such as Haber, Inc.; failed to supervise activities in her account; and acted in a willfully negligent matter.

Respondent Semon alleged all transactions were authorized and/or ratified; Claimant received written confirmations for each security sold or purchased; Claimant never complained about the transactions in Haber, Inc.

Respondent Muller alleged he had no personal involvement with Claimant either prior to or subsequent to her claim; during the operative times described by Claimant, Muller was the Vice-Chairman of the Board of Phillips Appel & Walden, Inc. ("PAW"); PAW would be the responsible party for any alleged wrongdoings by a registered representative acting within the scope of his employment; Muller performed his duties in compliance with his office and the policies of PAW.

Respondent Blatt alleged that during the operative times described by Claimant he was the PAW Board Chairman and Chief Executive Officer; he had no personal involvement with Claimant prior to or subsequent to her claim; PAW would be the responsible party for alleged wrongdoings by a registered representative acting within the scope of his employment; Blatt performed his duties in compliance with his office and the policies of PAW.

Respondent Tarulli alleged he had no knowledge of Claimant's dissatisfaction prior to this arbitration and would have initiated remedial action had he known; he was not aware of any customer complaints regarding Semon or Haber, Inc. stock; he assumed much of Claimant's complaint involved the period after he left PAW; he stated he was not derelict in his responsibilities as Co-Branch Manager of the Ft. Lee office; and that he did not feel responsible for Claimant's losses.

RELIEF REQUESTED

Claimant requested: actual damages in the amount of \$146,287.00; interest in the amount \$42,950; punitive damages in the amount of \$1,000,000; and

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attorneys' fees in the amount of \$45,000.00.

Respondent Semon requested: that all damages/losses were attributable to or were caused by the Claimant.

Respondent Muller requested: that if any award should be made against him, he is entitled to an award over against Respondent Semon and that the claim be dismissed.

Respondent Blatt requested: that if any award should be made against him he is entitled to an award over against Respondent Semon and that the claim be dismissed.

Respondent Tarulli requested: the arbitrators dismiss in full the arbitration claim of Claimant against him.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, 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.

1- Claimant has withdrawn her claim, with prejudice, against Respondents PAW, Gruntal & Co., Inc., Gary Post, James S. Coleman, Richard Englehardt, and Burt Weichselbaum.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

- 1- Claimant's claim against Respondent Tarulli is dismissed;
- 2- Respondent Semon is liable and shall pay to Claimant the sum of FORTY EIGHT THOUSAND 00/100 DOLLARS (\$48,000.00);
- 3- Respondents Muller and Blatt are liable, jointly and severally, and shall pay to Claimant the sum of FORTY EIGHT THOUSAND 00/100 DOLLARS (\$48,000.00);
- 4- All other claims made by all parties are dismissed;
- 5- Each party shall bear its own costs, including attorneys' fees.

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FORUM FEES

Pursuant to Section 43(a) of the Code of Arbitration Procedure, (as amended May 10, 1985) the NASD shall retain the \$750.00 previously deposited by Claimant and following Forum Fees are assessed.

11 sessions X \$750.00 = \$8,250.00 minus \$750.00 = \$7,500.00 due and owing.

Forum fees Assessed Against:

1- Respondents Semon, Muller and Blatt (jointly and severally) in the amount of \$7,500.00.

Fees are payable to the National Association of Securities Dealers, Inc.

Concurring Arbitrators' Signatures


Theodore Kimelman/Industry Arbitrator

Date: February 3, 1992

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Forum fees Assessed Against:

1- Respondents Simon, Miller and Blatt (jointly and severally) in the amount of \$7,500.00.

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Concurring Arbitrators' Signatures

Milton H. Lehrer

Milton H. Lehrer/Public Arbitrator

Date: February 3, 1992

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Concurring Arbitrators' Signatures


Allen Kilik/Public Arbitrator

Date: February 3, 1992