

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Among

Carolyn Gross

Claimant

vs.

Case #89-02617  
AWARD

First Fidelity Capital Corp. and  
Bernard McGee and Michael Columbre

Respondent  
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CASE SUMMARY

Claimant, Carolyn Gross ("Gross"), alleged Respondents, First Fidelity Capital Corp. ("FFCC"), Bernard McGee ("McGee"), and Michael Columbre ("Columbre"), recommended unsuitable investments, executed unauthorized trades and handled her funds improperly. Claimant also averred Columbre deliberately misquoted the prices of certain stocks, insulted and belittled her.

Respondents, FFCC and Columbre, maintained they should not be held liable for any losses incurred by Claimant. They stated they had no knowledge of McGee executing unauthorized trades. Columbre denied he was uncooperative with Claimant or refused her calls.

Respondent, McGee, stated Claimant was an experienced investor. He stated the stocks he generally recommended had more risks than those she previously traded but potentially more reward. He believed she understood the risks and rewards of these securities. Respondent further asserted Claimant never complained to him about unauthorized trades or incorrect confirms.

RELIEF REQUESTED

Claimant, Gross, requested actual damages in the amount of \$24,276.25.

Respondents, FFCC and Columbre, requested dismissal of the claims against them and cross claimed against McGee for indemnification if they were found to be liable to Claimant.

Respondent, McGee, requested dismissal of the claims against him.

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### AWARD

On October 17, 1990, the undersigned arbitrator heard the controversy among the parties as set forth in submissions to arbitration signed by the Claimant, Gross, on September 14, 1989 and by the Respondents, FFCC, Columbre and McGee on April 20, 1990, April 23, 1990 and April 23, 1990, respectively. The hearing was held in New York City at the NASD, Inc. and consisted of one (1) hearing session. The arbitrator, 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. Pursuant to the by-laws of the NASD it was determined Respondents, FFCC and Columbre received sufficient notice of the date, time and place of this hearing and were required to submit to this arbitration and, therefore, are bound by this panel's rulings and determinations;

2. Respondents, First Fidelity Capital Corp. and Bernard McGee and Michael Columbre hereby are found liable, jointly and severally, and shall pay to the Claimant, Carolyn Gross, the sum of \$10,287.50, plus interest from December 31, 1987 through the date of this award at a rate of nine percent (9%) per annum;

3. Respondents FFCC and Columbre's cross claim is dismissed with prejudice;

4. The parties shall each bear their respective costs, including attorneys' fees;

5. Pursuant to Section 43, 44 or 45 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$400.00 filing fee previously deposited by the Claimant;

6. Forum fees are payable to the NASD, Inc. through its staff counsel in accordance with Section 43, 44 or 45 of the Code of Arbitration Procedure and are assessed as follows:

a- Claimant, Gross, is assessed forum fees in the amount of \$100.00. Claimant may use the amount of the filing fee to offset the forum fees assessed against her;

b- Respondent, FFCC, is assessed forum fees in the amount of \$100.00;

c- Respondent, McGee, is assessed forum fees in the amount of \$100.00;

d- Respondent, Columbre, is assessed forum fees in the amount of \$100.00.

ARBITRATOR SIGNATURE

  
Murray Sommer

November 28, 1990