

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Kenneth Mitkowski

89-02678

Name of Respondent(s)

Lori Bye
Royce Park Investments, Inc.

CASE SUMMARY

Claimant alleged that Respondents engaged in fraudulent recommendations of penny stocks so that Claimant's entire worth was placed at risk. Claimant further alleged that the Respondents failed to monitor the activity in the client's account and failed to advise him of the risks inherent in the trading activity into which he was placed. Respondents Lori Bye and Royce Park Investments maintained that the Claimant informed the Respondents that his trading objectives were "growth" and "speculation," rejected the recommendations of the Respondents, and made full disclosure to the Claimant regarding all invested securities.

RELIEF REQUESTED

Claimant requested compensatory damages of \$57,785.82, treble damages of \$173,357.46, and attorneys' fees of \$57,785.82. Respondents requested that the claims of the Claimant be dismissed.

AWARD

On December 10, 1990 and December 11, 1990 in New York City, the undersigned arbitrators heard the controversy between the parties as set

forth in submissions to arbitration signed by the Claimant Kenneth Mitkowski on September 8, 1989, by Respondent Lori Bye on March 5, 1990, and by Respondent Royce Park Investments on January 17, 1990. The initial Statement of Claim was filed on September 25, 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 all issues submitted for determination as follows:

- (1) Claimant's Motion to Dismiss Lori Bye from the proceeding with prejudice as asserted at the hearing in this matter is granted by the panel.
- (2) Respondent Royce Park Investments is liable and shall pay to the Claimant Kenneth Mitkowski the sum of Forty One Thousand Dollars and No Cents (\$41,000.00) plus interest at a rate of 9% from September 1, 1987 through the date of payment of this award.
- (3) The Claimant's claim for treble damages is denied.
- (4) The parties shall each bear their respective costs, including attorneys' fees.
- (5) Pursuant to Section 43 of the Code of Arbitration Procedure, the NASD, Inc. shall retain the \$750.00 filing fee previously deposited by the Claimant and hereby assesses an additional \$750.00 against the Claimant Kenneth Mitkowski in forum fees. The panel further assesses \$1,500.00 in forum fees against Respondent Royce Park Investments. All forum fees are to be made payable to the NASD, Inc. and are assessed as costs of the four hearing sessions conducted in this matter.

Arbitrators' Signature

/s/ _____
Anne Cugliani

/s/ _____
Milton Lehrer, Esq.

/s/ _____
Paul Barr

Dated: January 28, 1991