

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between)	
Steven H. Wilcomb,)	
Individually and On Behalf)	
of Chad H. Wilcomb, and)	
Susan K. Wilcomb)	Claimants
vs.)	AWARD
Bliss Securities, Inc.)	
(formerly known as)	
Guildcor Financial, Inc.))	
Stephen Smith, & John Davis)	Respondents
)	CASE NO. 89-02816

SUMMARY OF ISSUES

Claimants alleged Respondents breached their fiduciary duty, breached their contract with Claimants, and fraudulently misrepresented the suitability for their accounts of investments in penny stocks and OEX options. Claimants also alleged Respondents misrepresented to them the true facts concerning their accounts, and acted negligently. Claimants also alleged violations of the RICO Act.

Respondents Bliss and Smith separately denied all allegations; each asserted Claimants were fully informed of the risks of their investments and specifically authorized all trades. Each also asserted that Claimants had failed to state facts sufficient to constitute a cause of action.

DAMAGES AND RELIEF REQUESTED

Claimants requested damages in the amount of approximately \$100,000.00, rescission of all investments made between 1984 and 1987, interest, punitive damages, treble damages under RICO, and costs of arbitration.

Respondents Bliss and Smith separately requested dismissal of all Claimants' claims, and an award against Claimants for costs of arbitration. Respondent Bliss requested indemnification for any award in favor of Claimants against Respondent Smith and Cross-Respondent Davis.

DAMAGES AND RELIEF AWARDED

This claim was filed with the NASD on October 12, 1989. On August 22, 1990, the undersigned arbitrators heard the controversy between the parties, as set forth in submissions to arbitration signed by Claimants on October 3, 1989, by Bliss Securities on December 8, 1989, and by Stephen Smith on December 8, 1989. Jack Davis did not file a submission agreement, nor did he appear at the hearing. The hearing was conducted in San Diego, California and lasted two (2) sessions. 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 as follows:

1. Respondents Bliss Securities and Stephen Smith are jointly and severally liable for and shall pay to Claimants the sum of \$47,868.00, attributable as follows:
 - a) For the Chad Wilcomb account: \$18,896.00 inclusive of interest;
 - b) For the Steven and Susan Wilcomb account: \$28,972.00 inclusive of interest.
2. The claims for punitive damages and treble damages under RICO are dismissed.
3. The cross-claims for indemnification brought by Respondent Bliss are dismissed.
4. The parties shall each bear their respective costs including attorneys' fees.
5. In accordance with Section 43 of the NASD Code of Arbitration Procedure the NASD shall retain the \$100.00 filing fee previously deposited by Claimant. In addition, Claimants are assessed \$400.00 for unpaid filing fees, payable to the NASD. Bliss Securities is assessed a filing fee of \$200.00 payable to the NASD due with respect to its counterclaim. In addition, Respondents Bliss and Smith are jointly and severally assessed forum fees of \$700.00, payable to the NASD.

OTHER ISSUES

The panel determined that it did not at present have jurisdiction over Respondent Jack Davis due to procedural defects in the service of process. This award does not apply to Mr. Davis.

ARBITRATORS CONCURRING

DATE SERVED: 11/1/90

William R. Newsome

Daniel A. Weber

William Brack