

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

National Association of
Securities Dealers, Inc.
Suite 1680
Three First National Plaza
Chicago, IL 60602
(312) 899-4440

In the Matter of the Arbitration Between

Name of Claimant(s)

Jack S. Nelson

89-03126

Name of Respondent(s)

Sherwood Capital Inc.
James Mariani

CASE SUMMARY

In a claim filed with the NASD on or about November 11, 1989, Claimant alleged that Sherwood Capital, Inc. and James Mariani (collectively "Respondents") misrepresented material facts in connection with securities sold by Respondents to Claimant which were relied on by the Claimant. Claimant further asserts that these misrepresentations constitute 1) a breach of the NASD Rules of Fair Practice; 2) a breach of fiduciary duty to the Claimant; and 3) the effectuation of an unsuitable investment for the Claimant. Claimant also alleged that certain securities sold by the Respondents were not registered with the state of Missouri.

In an answer filed with the NASD on or about January 12, 1990, Respondents denied all allegations of wrongdoing asserted by the Claimant. Furthermore, Respondents stated that 1) the investments recommended to Claimant were suitable for Claimant based on his investment objectives; 2) Respondents never misrepresented material facts regarding the investments; 3) Claimant's Statement of Claim fails to state a claim for relief; 4) the relief sought by the Claimant is barred by the Doctrines of Laches, Estoppel, Ratification, Waiver, Unclean Hands and Claimant's failure to exercise due diligence; and 5) all trades in Claimant's account were authorized. Respondent also stated that Claimant's claim is barred by the Statute of Limitations and Respondent's exercise of good faith with regard to Claimant's account.

RELIEF REQUESTED

Claimant requested damages in the amount of Twenty Seven Thousand Eight Hundred Eighty Eight Dollars and Seventy Five Cents (\$27,888.75) plus attorney's fees, interest, and costs incurred in connection with this proceeding.

AWARD

On September 20, 1990 in St. Louis, Missouri during a hearing lasting 2 sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on October 17, 1989 by Claimant, Jack Nelson and on December 29, 1989 by Michael C. James on behalf of Respondent, Sherwood Capital, Inc., and on January 11, 1990 by Respondent, James Mariani.

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. Respondents, Sherwood Capital, Inc. and James Mariani are liable for, jointly and severally, and shall pay to Claimant, Jack S. Nelson, damages in the amount of Fifteen Thousand Three Hundred Nineteen Dollars and Seventy Five Cents (\$15,319.75).
2. There is no award of attorney's fees, interest or costs.
3. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain as forum fees, the \$400.00 filing fee previously deposited with the NASD by the Claimant. Claimant is also assessed an additional \$400.00 in forum fees. Respondent is assessed \$400.00 in forum fees.

Dated: September 20, 1990

/s/ Scott Helmholtz, Presiding Chair