

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)

Jon A & Susan E. Brunsvold

90-00300

Name of Respondent(s)

R.J. Steichen & Company
Charles E. Purdy
Gwendolyn Gayle Purdy

CASE SUMMARY

In a claim filed with the NASD on or about January 29, 1990 Jon A. Brunsvold and Susan Brunsvold ("Claimants") alleged that R.J. Steichen and Co., Charles E. Purdy and Gwendolyn Gayle Purdy ("Respondents"): recommended and purchased for Claimants' account securities which were unsuitable for Claimants due to their investment objectives and experience; recommended and purchased securities for Claimants' account in which Respondents were the market maker but did not disclose to the Claimants that Respondents were market makers; misrepresented material facts in connection with stock recommended to Claimants; breached a contract with Claimants in which Respondents were to insure Claimants' investment objectives were being met; breached their duty to act in a reasonable and prudent manner with regard to the Claimants' account; and, breached their duty of due care to the Claimants. Claimants also allege that: Respondent R.J. Steichen and Co. was a control person while Charles and Gwendolyn Purdy were in R.J. Steichen and Co's employ and is therefore, jointly and severally liable to the same extent as the Purdys; Respondent R.J. Steichen and Co. is also liable as the Purdys' employer under the doctrine of respondeat superior; and Respondent R.J. Steichen and Co. was negligent in its hiring, retaining and supervising of the Purdys.

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In a Statement of Answer filed by the Respondents on or about April 4, 1990, Respondents denied all allegations of wrongdoing asserted in the Statement of Claim and assert that: 1) there was no breach of duty toward the Claimants and that any duty that Respondents had toward the Claimants was satisfied; 2) the Respondents made no misrepresentations to the Claimants; 3) the Respondents' representations did not cause the Claimants' losses; 4) there was no breach of contract on behalf of the Respondents; and 5) Respondent R.J. Steichen and Co. cannot be liable as a control person nor under the theory of respondeat superior. Respondents also assert that Claimants' claims are barred by the doctrines of estoppel, waiver, laches, ratification and failure to mitigate damages by the Claimants.

RELIEF REQUESTED

Claimants requested actual damages in excess of \$20,000.00 against Respondents, jointly and severally, reasonable attorneys' fees, interest on all sums awarded, costs incurred in prosecuting this action and punitive damages.

Respondents requested attorneys' fees and costs incurred in defending this matter.

AWARD

On October 29, 1990 in Minneapolis, Minnesota during a hearing lasting a total of two (2) sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on January 22, 1990 by Claimant Susan A. Brunsvold, on April 3, 1990 by John E. Felt on behalf of Respondent R.J. Steichen and Co., on April 4, 1990 by Respondent Charles E. Purdy and on April 4, 1990 by Respondent Gwendolyn Gayle Purdy.

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. The Claimants' claim, as asserted, is denied in its entirety.

Arbitration

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Pursuant to Section 43(c) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the hearing session deposit in the amount of \$400.00 previously deposited with the NASD by the Claimant.

By the Panel

Dated: October 29, 1990 /S/ George A. Beck, Esq.
 Presiding Chair

Dated: October 29, 1990 /S/ Angela R. Banga, Esq.

Dated: October 29, 1990 /S/ Kenneth O. Fossey, Esq.