

NASD AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Doran J. Mooney

90-01158

Name of Respondents

Omni Financial Management, Inc.
Lawrence Daniel McCue

REPRESENTATION

For Claimant: Joseph E. Kohler, Esq.

For Respondents: Benjamin B. Segel, Esq.

CASE INFORMATION

Statement of Claim filed: April 24, 1990.

Claimant's Submission Agreement signed on: April 19, 1990.

Joint Statement of Answer filed by Respondents Omni Financial Management, Inc. and Lawrence Daniel McCue on: June 1, 1990.

Respondent Lawrence Daniel McCue's Submission Agreement signed on: July 19, 1991.

The Submission Agreement was not signed by Respondent Omni Financial Management, Inc. as required pursuant to Section 8 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure.

HEARING INFORMATION

Hearing Date and Sessions: August 23, 1991, Two (2) sessions.

Hearing Location: Columbus, Ohio.

CASE SUMMARY

Claimant alleged that securities were not sold by Respondents when Claimant directed Respondents to sell stocks; securities were purchased and sold in Claimant's account when Claimant told Respondent Lawrence Daniel McCue not to purchase and sell any more securities; purchases and sales of puts and calls were made in Claimant's account with the use of a margin account, the workings of which were not fully explained to Claimant and Respondents did not send dividends to Claimant when directed by Claimant to do so.

Respondents Omni Financial Management, Inc. and Lawrence Daniel McCue maintained that Claimant, after having been fully advised of the risks inherent in securities, options and margin trading, knowingly authorized each and every trade transacted in his account, that all such trades were confirmed in writing to Claimant and that Claimant was sent monthly statements reflecting all activities in his account. Respondents further maintained Claimant had an annual income of \$70,000.00, liquid assets and net worth of over \$100,000.00 and that his investment objectives were speculation, short term trading, growth and income and Claimant was financially able to bear the risks associated with the trades. Respondents further maintained Respondent Omni Financial Management, Inc. was not a registered broker-dealer and was not a member firm of the National Association of Securities Dealers, Inc., and Claimant never maintained an account with Respondent Omni Financial Management, Inc. for the purchase or sale of securities and the National Association of Securities Dealers, Inc. lacks jurisdiction over the person of Respondent Omni Financial Management, Inc., and over the subject matter of Claimant's claims against Respondent Omni Financial Management, Inc.

RELIEF REQUESTED

Claimant requested compensatory damages of \$35,000.00, plus interest, punitive damages of \$7,500.00 and such other relief as the Arbitrators deem just and reasonable.

Respondents requested dismissal of all claims against them, plus costs including reasonable attorneys' fees, that all forum fees and other taxable costs and expenses be assessed against the Claimant and that they be awarded all further relief to which they may be entitled.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. The Respondents Omni Financial Management, Inc. and Lawrence Daniel McCue be and hereby are liable jointly and severally and shall pay to the Claimant Doran J. Mooney the sum of \$25,000.00, plus simple interest at the rate of 8% per annum from the date of decision until the date of payment of the Award.

2. The Respondent Lawrence Daniel McCue be and hereby is liable and shall pay to the Claimant Doran J. Mooney the sum of \$10,000.00, plus simple interest at the rate of 8% per annum from the date of decision until the date of payment of the Award.
3. The parties shall each bear their respective costs, including attorneys' fees.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed.

Two sessions X \$400.00 = \$800.00 minus hearing session deposit of \$400.00 = \$400.00 due + \$120.00 claim filing fee outstanding = net \$520.00 due.

The Respondents Omni Financial Management, Inc. and Lawrence Daniel McCue be and hereby are liable jointly and severally and shall pay to the Claimant the sum of \$400.00 to reimburse him for the hearing session deposit and the Respondents Omni Financial Management, Inc. and Lawrence Daniel McCue be and hereby are liable jointly and severally and shall pay to the National Association of Securities Dealers, Inc. the sum of \$520.00 to represent forum fees.

ARBITRATORS' SIGNATURE

Name

Public/Industry


Ahmed Seif Amragy

Public Arbitrator

Date of Decision: October 11, 1991