

NATIONAL ASSOCIATION OF SECURITIES DEALERS

National Association of
Securities Dealers, Inc.
NASD Financial Center
33 Whitehall Street
New York, New York 10004

In the Matter of the Arbitration Between

Name of Claimant

Zoe M. Tillson

vs

90-01457

Name of Respondents

Donaldson Lufkin & Jenrette Securities
Todd Kanter
Mark H. Fiskio

Heard before the members of the Arbitration Panel:

Name

David Love, Esq.

Public/Industry

Public

Howard M. Schott, Esq.PublicJack A. MarshallIndustryREPRESENTATION

Claimant, Zoe M. Tillson, was represented by David E. Shellenberger, Esq.. Respondents, Donaldson, Lufkin & Jenerette Securities Corporation (DLJ), Todd Kanter and Mark Fiskio were represented by Richelle S. Kennedy, Esq. of Bingham Dana & Gould.

CASE SUMMARY

This claim was initiated by a Statement of Claim filed with the National Association of Securities Dealers, Inc. ("NASD") on May 22, 1990. An Amended State of Claim was also filed on July 31, 1990. Claimant alleges that Respondent Fiskio recommended unsuitable investment vehicles which her caused to sustain damages of \$159,283.00. Claimant asserts that he failed to advise her about the risk in trading on margin which he knew was contrary to her investment objective and aggressively margined her account. Claimant contends that Respondents, DLJ and Kanter, failed to supervise her account. Claimant further contends that the release signed by Claimant was obtained through the exercise of undue influence and is void on the ground that it is unconscionable, that Respondents committed common law fraud, breached their fiduciary duty breached their contract and negligently handled her account. Claimant also alleges that Respondents violated Massachusetts General Laws c.. 93A, Section 2.

In lieu of an answer, on August 30, 1991, Respondents filed with the NASD a Request to Bifurcate the Claims presented by the Claimant. Respondents requests that the validity of the release executed by the parties on February 8, 1989, should be bifurcated from all remaining claims in the Statement of Claims.

Claimant filed opposition papers to the motion to bifurcate on October 1, 1990. Claimant also filed a Motion to Bar Defenses of Respondents which was later withdrawn.

Subsequent to a pre-hearing conference on the motion to bifurcate, Respondents filed a Statement of Answer dated March 25, 1991, with the NASD.

Respondents deny the allegations of wrongdoing and contend that they did not exercise undue influence or pressure Claimant to sign the Release. Respondents assert seven affirmative defenses.

RELIEF REQUESTED

Claimant requests \$142,031.00 in damages plus interest, costs, attorney's fees and treble damages pursuant to c. 93A, Section 9.

Respondents request that the arbitrators dismiss the Statement of Claim and award Respondents their costs and disbursements in the action, including reasonable attorney's fees.

AWARD

On February 28, 1991, April 15, 1991, April 16, 1991, May 28, 1991, and May 29, 1991, in Boston, Massachusetts during one (1) pre-hearing session and a hearing lasting eight (8) sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimants, Zoe M. Tillson on April 23, 1990, signed by Thomas A. Franko on behalf of Respondent, Donaldson, Lufkin & Jenerette Securities Corporation on March 25, 1991, and signed by Respondents, Todd Kanter and Mark Fiskio, on March 25, 1991, and April 1, 1990, respectively.

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award be entered. In either case, the parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASD.

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

1. Respondents are liable to the Claimant and shall pay her a total of Forty Three Thousand Dollars and Zero Cent (\$43,000.00) in damages as outlined in paragraphs 2, 3 & 4;

2. Respondent DLJ is liable to the Claimant for Thirty Five Thousand Dollars and Zero Cent (\$35,000.00);
3. Respondent Kanter is liable to the Claimant for Five Thousand Dollars and Zero Cent (\$5,000.00);
4. Respondent Fiskio is liable to the Claimant for Three Thousand Dollars and Zero Cent (\$3,000.00);
5. The claim for interest is denied;
6. The claim for attorney's fees is denied;
7. The claim for treble damages is denied;
8. The claim for costs is denied.

OTHER ISSUES

Respondents' motion to bifurcate the claims asserted in the Statement of Claim was heard during a pre-hearing conference held on February 28, 1990. That motion was denied and Respondents were directed to file an answer within ten (10) days.

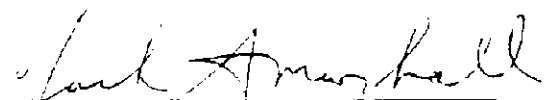
FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, Forum Fees are assessed as follows:

1. The NASD has received \$750.00 which was previously deposited by the Claimant;
2. Claimant is assessed \$200.00 non-refundable filing fee which shall be deducted from the amount previously deposited. Claimant is therefore due a refund of \$550.00 which shall be paid in accordance with the paragraphs below;
3. Forum fees in the amount of \$6,300.00 has been assessed against Respondent DLJ (8 hearing sessions X \$750.00 and 1 pre-hearing session X \$300.00 = \$6,300.00). Respondent shall satisfy this assessment by reimbursing Claimant \$550.00 in accordance with paragraph 2 above. The balance shall be paid to the NASD.

Fees are payable to the National Association of Securities Dealers, Inc.

Concurring Arbitrator Signature


Jack A. Marshall

Date of Decision: 5/29/91

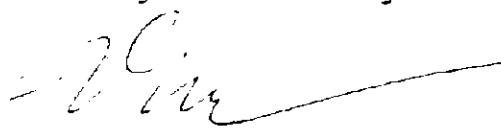
Concurring Arbitrator Signature

Howard M. Schott
Howard M. Schott

Date of Decision: June 12, 1991

Page 4
90-01457

Concurring Arbitrator Signature



David Love, Esq.

Date of Decision: June 25, 1991