

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between :
:
Ellen Wiseman :
:
Claimant :
:
vs. :
:
Gary Vincent :
:
Respondent :

CASE #90-02581
AWARD

CASE SUMMARY

Pro Se Claimant Ellen Wiseman, in a claim filed with the National Association of Securities Dealers, Inc. on September 14, 1990, alleged that Respondent Gary Vincent, while a broker with Morgan, Olmstead, Kennedy and Gardner in Gresham, OR, made unsuitable recommendations to her to purchase Mutual Oil of America, Inc. and L.D. Brinkman stock said investments being inconsistent with Claimant's objectives to acquire only secure stock and bonds. Claimant states that these investments were ill-advised and uses as a monetary benefit for Mr. Vincent's friends.

Respondent, Gary Vincent, Pro Se, maintained that the statute of limitations has expired on this claim according to both Federal and Oregon State Law. He states that Ms. Wiseman refrained from filing her claim for four years after Mutual Oil declared bankruptcy and continued to utilize his services even after the stock became worthless. He continues that the investments made were suitable for Claimant according to her stated objectives for a portfolio split between fixed income and speculative growth and that all investment decisions were made by Ms. Wiseman.

Claimant replies that she was not aware that she had any recourse to try and recoup her investment until five months before filing for arbitration when she received information concerning arbitration from the Seattle office of the NASD, Inc. She denies stating "speculative growth" as an objective and asserts that she followed Mr. Vincent's advice; he collected commissions and she lost money. She states that she did not know that MUTO had filed for bankruptcy and that she made one investment with Mr. Vincent subsequently to the MUTO and LDB exchanges.

Respondent replies that "if a broker can be liable when a customer decides, in hindsight, that the broker has violated the rules of common sense and good judgement, the profession is in serious trouble." He states that a hearing would be a waste of time.

RELIEF REQUESTED

Claimant requests Four Thousand Two Hundred Seventy-Five Dollars (\$4,275) in damages plus the One Hundred Twenty-Five Dollar (\$125) NASD filing fee.

Respondent requests that the claim be dismissed without a hearing.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, William E. Love, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on August 20, 1990 and by the Respondent on May 16, 1991;

And, that the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. That the Claim of Ellen Wiseman be, and hereby is, dismissed.
2. The One Hundred Twenty-Five Dollar (\$125) filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc.

AFFIRMATION

I, WILLIAM E. LOVE, do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.



Signature of Arbitrator

DATED: *October 7, 1991.*