

**N.A.S.D. AWARD**

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Jacqueline M. Brown

90-03407

Name of Respondent

G.K. Scott & Co., Inc.

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**REPRESENTATION**

Claimant, Jacqueline M. Brown ("Brown"), was represented by Morgan W. Bentley who is a sole practitioner. Respondent, G.K. Scott & Co., Inc. ("GKS"), was represented by Harold Geringer of Geringer & Dolan.

**CASE INFORMATION**

Statement of Claim filed: November 29, 1990.

Claimant's Submission Agreement signed on: November 20, 1990.

Statement of Answer filed on: February 19, 1991.

Respondent's Submission Agreement signed on: February 20, 1991.

**HEARING INFORMATION**

Hearing Date(s)/Sessions: June 4, 1991/2 sessions  
June 5, 1991/2 sessions  
July 10, 1991/2 sessions

**CASE SUMMARY**

Claimant alleged she was an unsophisticated investor and relied upon her brokers to give her investment advice commensurate with her financial situation and needs. Claimant alleged Respondent acted in a negligent and reckless manner with regard to Brown's account and recommended purchases of high risk "penny" stocks in order to earn substantial fees and commissions. Claimant stated Respondent (through its agent) assured her that her monies would be invested in safe, secure and conservative investments. Claimant averred Respondent's agent made purchases in the Brown account and then informed her after the fact, assuring her the investments were of good quality. Brown also alleged Respondent

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failed to properly supervise its agent and the transactions in Claimant's account. Also, Claimant alleged Respondent's agent gave Brown his personal funds when she requested funds from her account, telling her she had to stay in the investments to make a profit, however, the result was a total loss. Finally, Claimant stated the investments were unsuitable when taken in conjunction with her age, investment experience and financial needs; there was unauthorized trading occurring in her account, and excessive commissions were generated from the inappropriate investments as were excessive production credits.

Respondent alleged Claimant's Statement of Claim failed to state any cause of action against Respondent upon which relief may be granted. GKS stated Claimant did have experience in investments as she had previously invested with Respondent's agent while he was employed with Brennan-Ross Securities. GKS stated Claimant told its agent (while he was with Brennan-Ross Securities) she was looking for 20-30% returns and that she could only receive such returns by investing in speculative securities. GKS asserted Claimant told its agent she was a wealthy lady and could easily afford to invest in speculative securities. GKS averred its agent recommended some conservative investments to Brown, but she refused such advice. GKS denied its agent ever executed a transaction without Brown's prior approval and request. Respondent stated its agent continually sent Brown research reports and that all confirmations were immediately mailed to Claimant as were monthly statements. GKS maintained that as Claimant followed its agent from Brennan-Ross Securities to G.K. Scott & Co., Inc. to Kober Financial Group to Horizon International Group that Claimant has and had the utmost confidence in its agent. Finally, GKS denied that its agent ever provided any personal funds to the Claimant for any of the purposes alleged in the Statement of Claim.

#### RELIEF REQUESTED

Claimant requested actual damages of \$73,053.00, interest at 9% compounded annually from August 1, 1988 to June 4, 1991, punitive damages, attorney's fees, expert witness fee, and reimbursement of the filing fee paid to the NASD.

Respondent requested that Claimant's demands be denied in their entirety and that Respondent be awarded the costs and disbursements of this proceeding.

#### AWARD

After considering the pleadings the testimony and the evidence presented at the hearing and post hearing submissions (if any),

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the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

- 1- 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;
- 2- Respondent hereby is liable and shall pay to the Claimant the amount of \$35,000.00;
- 3- All other claims are dismissed;
- 4- The parties shall each bear their respective costs including attorneys' fees;

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the NASD shall retain the \$200.00 non-refundable filing fee previously deposited by the Claimant;

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following Forum Fee(s) are assessed:

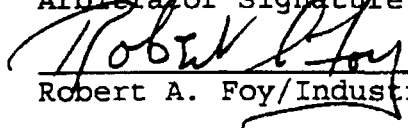
6 sessions X \$750.00 = \$4,500.00.

Forum fees assessed against:

- 1- Claimant, Brown in the amount of \$2,250.00 minus the hearing session deposit of \$750.00 = net \$1,500.00;
- 2- Respondent, GKS in the amount of \$2,250.00.

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

Arbitrator Signature

  
Robert A. Foy/Industry Arbitrator

STATE OF *New York*  
COUNTY OF *Westchester*

S.S.:

On this *29* of *July*, 1991, before me personally appeared Robert Foy known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same.

*Peter T. McLaughlin*

PETER T. McLAUGHLIN  
NOTARY PUBLIC, STATE OF NEW YORK  
NO. 60-4712009  
QUALIFIED IN WESTCHESTER COUNTY  
COMMISSION EXPIRES MARCH 30, 19*92*