

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between : CASE #90-03613 AWARD
Michael E. Wiseman : Michael E. & Cathy D.
Cathy D. Wiseman : Wiseman vs. Paragon
 : Capital Corp. & Mark
 : Cohen
 :
Claimants :
vs. : CONSOLIDATED WITH
 : ~~90-03613~~
Paragon Capital Corporation : David F. & Marla
Mark Cohen : Zuppke vs. Paragon
 : Capital Corp. & Mark
Respondents : Cohen

CASE SUMMARY

Pro Se Claimants, Michael E. and Cathy D. Wiseman, in a claim filed with the National Association of Securities Dealers, Inc. on December 26, 1990, alleged that Respondent Mark Cohen, while employed by Paragon Capital Corporation, materially misrepresented the facts concerning Unity Health Care and Club Theatre Network, Inc. stocks that he recommended to the Claimants, causing Claimants a monetary loss. Mr. and Mrs. Wiseman further state that Paragon Capital Corporation failed to properly train and supervise Mr. Cohen.

Respondent, Mark Cohen, Pro Se, maintained that at all times, information given to Mr. Wiseman was truthful, accurate and verifiable and that he did not prevent Mr. Wiseman from selling his shares at any time.

Respondent, Paragon Capital Corporation by their Compliance Officer Vincent M. Bruno, New York, NY, states that Mr. Wiseman represented to Mr. Cohen that he had a residence in the state of Florida. Paragon Capital Corporation maintained that Mr. Cohen's recommendations to purchase stock were made on public information and management meetings. Respondent confirms that Mr. Cohen did not dissuade Mr. Wiseman from selling his HDTV stock.

Claimant replies that he is surprised that Mr. Cohen did not state in his Answer to the Claim that he, Cohen, felt Paragon relayed incorrect information to its brokers. Claimant replied to Paragon's Answer that Mr. Cohen filled out the new account form with incorrect information not provided by Claimant. He reaffirms his position that Paragon failed to properly train Mr. Cohen.

Mark Cohen responds that he never received a sell order from Mr. Wiseman, never had any suspicions of wrongdoing by Paragon and that commissions did not influence his recommendations.

Paragon responds that Mr. Cohen made every effort to keep Claimants properly informed, that Claimant's new account form was completed with information provided by the Claimant to Mr. Cohen and that Mr. Cohen was qualified as a registered broker. Paragon Capital Corporation reaffirms their Statement of Answer.

By letter dated February 22, 1991, Claimants requested that this case be consolidated with case number 91-00039, David F. and Marla Zuppke. By letter dated March 11, 1991, Paragon Capital Corporation agreed to this consolidation. Mark Cohen did not object to consolidation.

RELIEF REQUEST

Claimants request Five Thousand Eight Hundred Sixty Dollars and No Cents (\$5,860.00) in damages.

Respondent Mark Cohen asserts that there is no valid basis for the Wiseman's Claims.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Francis C. Flood, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on December 20, 1990 and by Respondent Mark Cohen on January 18, 1991 and by Paragon Capital Corporation on January 18, 1991. Under Section 25(d), Mr. Flood concurrently rendered a decision for case #91-00039 as set forth in a separate award.

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 Respondents, Paragon Capital Corporation and Mark Cohen, are jointly and severally liable and shall pay to the Claimants, Michael E. and Cathy D. Wiseman, the sum of Five Thousand Eight Hundred Sixty Dollars and No Cents (\$5,860.00).

2. The One Hundred Fifty Dollars and No Cents (\$150.00) filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants shall be retained by the NASD, Inc.

AFFIRMATION

I, FRANCIS C. FLOOD, ESQ., 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: 7/31/91