

## N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

National Association of  
Securities Dealers, Inc.  
NASD Financial Center  
33 Whitehall Street  
New York, N.Y. 10004  
FAX (212) 858-4389

In the Matter of the Arbitration Between

Name of Claimants

Edward &amp; Maureen Kachinski

90-03616

Name of Respondents

Donald and Co. Securities  
John Sweeney

REPRESENTATION

For Claimants Edward & Maureen Kachinski ("Claimants"): William A. Despo, a sole practitioner.

For Respondents Donald and Co. Securities ("Donald and Co.") and John Sweeney ("Sweeney"): Franklin D. Ornsten of Ornsten & Evangelist.

CASE INFORMATION

Statement of Claim filed: December 21, 1990.

Claimants' Submission Agreement signed on: December 21, 1990.

Joint Statement of Answer of Respondents Donald and Sweeney filed: March 19, 1991.

Respondent Donald's Submission Agreement signed on: April 30, 1991.

Respondent Sweeney's Submission Agreement signed on: March 5, 1991.

HEARING INFORMATION

Hearing Dates/Sessions: August 28, 1991/2 sessions  
August 29, 1991/2 sessions  
October 25, 1991/2 sessions  
December 4, 1991/1 session

Hearing Location: NASD, New York, New York.

CASE SUMMARY

Claimants alleged Sweeney made unauthorized transactions; made fraudulent misstatements of material facts; misappropriated monies; churned the account; and recommended unsuitable investments in Moran units, Norwalk Southern call options, International Baslen stock and several other securities. Claimants further alleged Donald and Co. purchased the Tinton Falls, NJ office of J.T.

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Moran and Co., Inc. ("Moran") where the alleged complaints occurred and asserted Moran failed to supervise Sweeney.

Respondent Sweeney alleged the investments recommended to Claimants were suitable; that all transactions were authorized; and denied that misrepresentations of material facts were made. Finally, Respondents maintained Donald and Co. was not a successor corporation to J.T. Moran and was not "on the scene" when the events in question occurred.

RELIEF REQUESTED

Claimants requested: actual damages in the amount of \$44,675.00, inclusive of attorneys' fees, costs, and interest. Claimants also requested punitive damages.

Respondents requested: the Statement of Claim be dismissed.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may 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.

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- Respondent Sweeney is liable and shall pay to Claimants the sum of TWO THOUSAND FIVE HUNDRED FIFTY 00/100 DOLLARS (\$2,550.00).
- 2- The claim of the Claimant against Respondent Donald and Co. is dismissed;
- 3- All other claims are dismissed;
- 4- Each party shall bear its own costs, including attorneys' fees.

OTHER COSTS

All monies due and owing to Claimant and to the NASD must be paid no later than January 15, 1992. If these monies are not paid by January 15, 1992, interest is then due and owing at the rate of nine (9%) percent per annum from January 15, 1992 until date of payment.

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FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the NASD shall retain the \$250.00 non-refundable filing fee previously deposited by Claimants and the following Forum Fees are assessed.

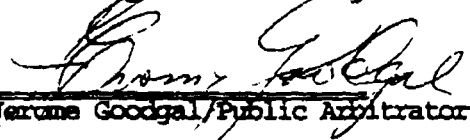
7 sessions X \$600.00 = \$4,200.00 minus hearing session deposit of \$600.00 = net \$3,600.00 due.

Forum fees Assessed Against:

- 1- Claimants in the amount of \$2,520.00; however, Claimants may use their hearing session deposit of \$600.00 to offset part of that amount. Therefore, the amount due and owing equals \$1,920.00;
- 2- Respondent Sweeney in the amount of \$1,680.00.

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

Concurring Arbitrator Signature

  
Jerome Goodgal/Public Arbitrator

Date of Decision: January 10, 1992

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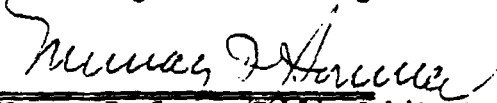
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Murray I. Sommer  
Murray I. Sommer/Public Arbitrator

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W. Gary Littlepage/Industry Arbitrator

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