

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between : CASE #91-00342 AWARD
Catherine L. Daidone, : Catherine L. Daidone
Gordon A. Soeder and Linda G. Smith : vs. Sherman Fitzpatrick
 : & Co., Inc.
 : CONSOLIDATED WITH
 : CASE #91-00610 AWARD
Claimants : Gordon A. Soeder vs.
 : Sherman Fitzpatrick &
vs. : Co., Inc.
 : CONSOLIDATED WITH
 : ~~CASE #91-02105 AWARD~~ ✓
 : Linda G. Smith vs.
Sherman Fitzpatrick & Co., Inc. : Sherman Fitzpatrick &
 : Co., Inc.
Respondent :

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. by Catherine L. Daidone on January 31, 1991, Gordon A. Soeder on February 26, 1991 and Linda G. Smith on July 9, 1991 these Claimants, who appeared Pro Se, in a consolidated matter, alleged that Respondent Sherman Fitzpatrick & Co., Inc. was responsible for accepting unauthorized trades from John Abruscato, whom the Claimants were led to believe was a registered stockbroker employed by the Respondent. Claimant Catherine L. Daidone further alleged that John Abruscato sold 11,000 shares of Dale Markey & Co., Inc. in an unauthorized transaction and used the funds to purchase Lorry Bay Inc. stock, also in an unauthorized transaction. Those shares were sold to purchase Rand Systems Warrants, which now have no value and were also purchased without the Claimants' knowledge or authorization.

Claimant Gordon A. Soeder further alleged that John Abruscato recommended the purchase of Rand Systems Common Stock which was not in his best interest, and that Respondent Sherman Fitzpatrick & Co., Inc. omitted material facts regarding these circumstances.

Claimant Linda G. Smith also alleged that unauthorized trades in Lorry Bay & Co., Rand Systems Inc. & Bann Littman & Co. were companies in which John Abruscato had family ties and that this information was withheld from her.

Respondent Sherman Fitzpatrick & Co., Inc. maintained that John Abruscato was never employed by their firm and that he never

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represented himself as a registered stockbroker. Respondent further maintained that Claimants Catherine L. Daidone, Gordon A. Soeder and Linda G. Smith were aware of the risks involved in these various purchases of the investments, that all pertinent information was disclosed to the Claimants, and that there was no fraud committed on their part. Respondent further maintained that Claimant Linda G. Smith received confirms of all transactions, which she never questioned; Claimants Gordon A. Soeder and Catherine L. Daidone authorized all transactions in each account and that these trades were discussed prior to the transactions.

RELIEF REQUESTED

Claimant, Catherine L. Daidone, requested \$7,265 in actual damages plus interest.

Claimant, Gordon A. Soeder, requested \$2,600 in actual damages, plus interest and expenses.

Claimant, Linda G. Smith, requested \$3,744 in actual damages, plus punitive damages.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Philip Levine, Esq., was selected to review and determine the matters in controversy between the parties set forth in submissions to Arbitration signed by the Claimant Catherine L. Daidone on April 29, 1991, Claimant Gordon A. Soeder on April 27, 1991 and Claimant Linda G. Smith on July 1, 1991. Respondent Sherman Fitzpatrick & Co., Inc. signed their submissions on June 7, 1991, July 15, 1991 and September 6, 1991.

And, 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. The Respondent Sherman Fitzpatrick & Co., Inc. is liable and shall pay to the Claimant Catherine L. Daidone \$2,500 in actual damages.
2. Respondent Sherman Fitzpatrick & Co., Inc. is liable and shall pay to the Claimant Gordon A. Soeder \$1,000 in actual damages.
3. Respondent Sherman Fitzpatrick & Co., Inc. is liable and shall pay to the Claimant Linda G. Smith \$1,000 in actual damages.

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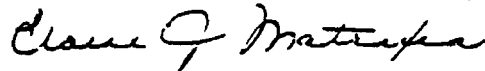
4. Claimant Linda G. Smith's request for punitive damages is denied.
5. Claimants Catherine L. Daidone and Gordon A. Soeder's request for interest is denied.
6. The parties shall bear their respective costs.
7. The \$150 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Catherine L. Daidone shall be retained by the NASD, Inc. The \$125 filing fee previously deposited with the National Association of Securities Dealers, Inc. by Gordon A. Soeder shall be retained by the NASD, Inc. The \$125 filing fee previously deposited with the National Association of Securities Dealers, Inc. by Claimant Linda G. Smith shall be retained by the NASD, Inc. Respondent Sherman Fitzpatrick & Co., Inc. shall pay \$150 to Claimant Catherine L. Daidone, \$125 to Claimant Gordon A. Soeder and \$125 to Claimant Linda G. Smith to reimburse them for the filing fees.

AFFIRMATION

I, PHILIP LEVINE, 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



ELAINE J. MATRANGA

NOTARY PUBLIC OF NEW JERSEY

DATE OF DECISION: January 22, 1992