

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between)

Name of Claimant(s))

Brian P. & Linda B. Hogan)

Name of Respondent(s))

G.K. Scott & Company, Inc.)

Paul Gray)

Case No. 91-00382

REPRESENTATION

For Claimants, Brian & Linda Hogan ("the Hogans"): Frederick Schrills, Esq. of Holland & Knight.

For Respondents, G.K. Scott & Company, Inc. ("G.K. Scott") and Paul Gray ("Gray"): William Isenberg, Esq. of Lantona & Isenberg.

CASE INFORMATION

Statement of Claim filed: February 5, 1991. Claimants' Submission Agreement signed: February 1, 1991.

Respondents' Statement of Answer filed: March 21, 1991. Respondents' Submission Agreement signed: March 7, 1991 by Gray and on March 7, 1991 by Fred Cirillo on behalf of G. K. Scott.

HEARING INFORMATION

On September 20, 1991, in Tampa, Florida, a pre-hearing conference lasting one (1) session was conducted via telephone conference call with an arbitrator.

On December 10, 1992, in Tampa, Florida, a hearing lasting two (2) sessions was conducted.

CASE SUMMARY

Claimants alleged that Respondents were liable for misrepresenting that certain stocks would increase in value. Claimants alleged that Respondents committed fraud and failed to advise Claimants of the risks involved.

Respondents denied all allegations of wrongdoing and alleged that: Gray made no predictions of future sale price and only expressed his personal opinion that the stocks could increase in value.

Respondents alleged the affirmative defenses of: failure to mitigate damages; failure to use due diligence; the losses were caused by Claimants' own negligence; lack of proximate cause; unclean hands; comparative negligence; and, good faith.

RELIEF REQUESTED

Claimants requested damages of \$29,825.25, plus interest and attorney's fees.

Respondents requested dismissal of the claim.

OTHER ISSUES CONSIDERED & DECIDED

1. Claimants withdrew their claim for treble damages at the commencement of the hearing.
2. 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 arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents, G.K. Scott and Gray, are found liable, jointly and severally, and shall pay to the Claimants the amount of \$36,000.00 inclusive of interest.
2. Claimants' request for attorney's fees is denied.
3. This Panel has determined that Claimants may retain the stocks at issue in this matter. The Panel will also note that the evidence showed that the stocks currently have no value.

OTHER COSTS

1. The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding including attorneys fees.

FORUM FEES

1. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount of \$1,300.00 (one pre-hearing conference x \$300.00, plus two sessions x \$500.00 per session).
2. Respondents, G.K. Scott and Gray, are hereby assessed \$1,300.00, jointly and severally, \$500.00 of which shall be paid directly to the Claimants as a refund of the hearing session deposit previously paid by Claimants, and \$800.00 of which shall be paid to the National Association of Securities Dealers, Inc.

3. The NASD shall retain the non-refundable filing fee of \$150.00 paid by Claimants.

4. Respondents shall, jointly and severally, reimburse the Claimants \$150.00 for the non-refundable filing fee.

5. The NASD shall retain the session deposit of \$500.00 paid by Claimants in partial satisfaction of such forum fees.

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

Concurring Arbitrators' Signatures

/S/
John R Kiefner, Jr., Esq.

Public

/S/
Andrew Fellics

Industry

/S/
Albert R. Neville, Jr.

Public

Date of Decision: January 8, 1993