



Arbitration

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

Geraldine J. Clarkson  
Debra Clarkson  
Donna Clarkson- LoBasso  
Joan Clarkson

vs.

Case #  
91-00652

Name of Respondents

G.K. Scott & Co., Inc.  
James G. Martin

REPRESENTATION

For Claimants: Ronald S. Herzog, Esq. of Jackson & Nash.

For Respondent, G. K. Scott & Co., Inc.: Harold I. Geringer, Esq. of  
Geringer & Dolan.

For Respondent, James G. Martin: Pro se.

CASE INFORMATION

Statement of Claim filed: February 29, 1991.  
Claimants, Geraldine J. Clarkson, Donna Clarkson-LoBasso and Joan Clarkson,  
executed Submission Agreement on: June 11, 1991.  
Claimant, Debra Clarkson, executed Submission Agreement on: June 12, 1991.

Statement of Answer filed by Respondents, G. K. Scott & Co., on: September  
24, 1991.  
Respondent's Submission Agreement signed on: August 16, 1991.

Statement of Answer filed by Respondent, James G. Martin, on: September 30,  
1991.  
Respondent's Submission Agreement signed on: November 19, 1991.

HEARING INFORMATION

Hearing Date/Hearing Sessions: January 28, 1992 - Two sessions.  
January 29, 1992 - Two sessions.  
February 07, 1992 - One session.

Hearing Location: New York, New York.

CASE SUMMARY

Claimant, Geraldine Clarkson, alleges that Respondent, James G. Martin, an account executive with Respondent, G.K. Scott & Co., Inc., made improper and unsuitable investments of all of her funds entrusted to him in highly speculative securities of Family Shopping Network, Inc. Said Claimant further alleges that Mr. Martin persuaded her to liquidate her individual retirement account as well as the custodial accounts she maintained under New Jersey Uniform Gift to Minors Act for her three children in order to generate a higher return on the funds without subjecting them to any substantial risk. Claimant also alleges that the securities are now worthless.

Claimant further alleges that Martin's handling of the accounts was either an attempt to maintain the price of the stocks for which G.K. Scott was a market maker or to maximize his commissions.

Respondent, G. K. Scott, denies liability. Respondent alleges that Geraldine Clarkson contacted Mr. Martin and advised him that she was unhappy with the performance of her investment accounts and that she was interested in purchasing securities in Family Shopping Network, Inc. Respondent further argues that when Claimants transferred their account to another firm, the securities were valued at \$32,830.35.

Said Respondent contends that Mr. Martin was properly supervised. Respondent further contends that Claimant failed to state a cause of action upon which any relief should be granted. Respondent also asserts an affirmative defense pursuant to Section 20(a) of the Securities Exchange Act of 1934.

Respondent, James G. Martin, alleges that he first met Geraldine Clarkson when she sought tax advice in connection with her divorce in 1987. Mr. Martin also alleges that said Claimant later sought investment advice which he gave. Mr. Martin alleges that Claimant stated that she wanted to liquidate her IRA and custodial accounts and place the proceeds into investments with more growth potential. Mr. Martin contends that despite his many recommendations including Kemper Investors Portfolio Government Plus Fund, Philip Morris Co. and General Motors Corp., Mrs. Clarkson rejected them and instead opted to invest in a smaller company, Family Shopping Network. Mr. Martin states that he sent her press releases, the prospectus, along with other research materials.

Respondent, James G. Martin, denies the allegations of wrongdoing and denies that he persuaded Mrs. Clarkson to liquidate her IRA and the custodial accounts. Said Respondent also alleges that despite the fact that Mrs. Clarkson was unhappy with the performance of Family Shopping Network, she did not want to sell the stocks and she transferred all accounts to L. C. Wegard & Co. when he went to work for that firm.

RELIEF REQUESTED

Claimants request an award of \$49,497.50 together with interest from March 23, 1989, attorney's fees and such other and further relief as deemed appropriate by the panel of arbitrators.

Respondent, G. K. Scott, requests that the Claimants' demands be denied in their entirety and that said Respondent be awarded costs and disbursements of this proceeding.

Respondent, James G. Martin, requests that all claims be denied.

OTHER ISSUES CONSIDERED AND 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 received conformed copies of the Award while the originals remain on file with the NASD.

At the close of Claimants' case, Respondent, G. K. Scott moved to dismiss the claims asserted against it. This Panel denied the motion.

Respondent, James G. Martin, attended the hearing on the January 28, 1992 and January 29, 1992. At the conclusion of testimony on January 29th, he inquired of the Panel whether he had to appear on February 7th and the Panel advised him that that was his choice and that if he did not appear, he would not get an opportunity to further defend himself and make a closing argument. When Mr. Martin failed to appear on February 7th, this Panel proceeded without him pursuant to Section 29 of the Code of Arbitration Procedure.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents, G. K. Scott & Co., Inc. and James G. Martin, are jointly liable to the Claimants for a total of Twenty Thousand Two Hundred and Ninety Three Dollars and Zero Cent (\$20,293.00). Said amounts shall be paid as outlined in the ensuing paragraphs;
2. Respondent, G.K. Scott & Co., Inc., is liable to Geraldine Clarkson in the amount of Six Thousand Four Hundred and Forty Seven Dollars and Seventy Four Cents (\$6,447.74);
3. Respondent, G. K. Scott & Co., Inc., is liable to Geraldine and Debra Clarkson in the amount of Three Thousand Six Hundred and Ninety Nine

Dollars and Twenty Two Cents (\$3,699.22);

4. Respondent, G. K. Scott & Co., Inc., is liable to Geraldine Clarkson and Donna Clarkson-LoBasso in the amount of Four Thousand and Fifteen Dollars and Fifty Two Cents (\$4,015.52);

5. Respondent, G. K. Scott & Co., Inc., is liable to Geraldine and Joan Clarkson in the amount of Four Thousand and Fifteen Dollars and Fifty Two Cents (\$4,015.52);

6. Respondent, James G. Martin, is liable to Geraldine Clarkson in the amount of Seven Hundred and Fifty Dollars and Twenty Cents (\$750.00);

7. Respondent, James G. Martin, is liable to Geraldine and Debra Clarkson in the amount Four Hundred and Thirty Dollars and Forty Cents (\$430.40);

8. Respondent, James G. Martin, is liable to Geraldine Clarkson and Donna Clarkson-LoBasso, in the amount of Four Hundred and Sixty Seven Dollars and Twenty Cents (\$467.20);

9. Respondent, James G. Martin, is liable to Geraldine and Joan Clarkson in the amount of Four Hundred and Sixty Seven Dollars and Twenty Cents (\$467.20);

10. Therefore, Respondent, G. K. Scott & Co., is liable to the Claimants for a total amount of Eighteen Thousand One Hundred and Seventy Eight Dollars and Zero Cent (\$18,178.00) inclusive of interest;

11. And, Respondent, James G. Martin, is liable to the Claimants for a total amount of Two Thousand One Hundred and Fifteen Dollars and Zero Cent (\$2,115.00) inclusive of interest;

12. The claim for attorney's fees is denied.

#### FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed and any fees previously paid shall be applied to the fees assessed.

1. The NASD has received and shall retain the \$120.00 non-refundable filing fee paid by the Claimants;

2. The NASD has received and shall retain the \$400.00 hearing session fee paid by the Claimants;

3. Forum fees in the amount of \$2,000.00 for five hearing sessions at \$400.00 per session ( $400.00 \times 5 = 2,000.00$ ) has been assessed and shall be

borne by the parties as outlined below;

4. Claimants are assessed a \$120.00 non-refundable filing fee;
5. Claimants are further assessed \$800.00 in forum fees;
6. Respondent, G. K. Scott & Co., Inc., is assessed \$800.00 in forum fees;
7. Respondent, James G. Martin, is assessed \$400.00 in forum fees.

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

Concurring Arbitrator's Signature  
Name

Deborah Sherman  
Deborah Sherman, Esq.

Public-Chairperson

Date of Decision: February 24, 1992

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Concurring Arbitrator's Signature  
Name

Industry

Andrew D. Hudders  
Andrew D. Hudders, Esq.

Date of Decision: February 24, 1992

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Concurring Arbitrator's Signature  
Name

Public

  
Ernest Farwick

Date of Decision: February 24, 1992