

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

George Myers

91-01005

Name of Respondents

Offerman & Company, Inc.
Richard A. Hogan

REPRESENTATION

For Claimant at the hearing: Rex L. Buxton, Esq. of The Law Offices of Skaar & McCullough, Minneapolis, Minnesota.

For Respondents at the hearing: Terrence J. Fleming, Esq. of Lindquist & Vennum, Minneapolis, Minnesota.

CASE INFORMATION

Statement of Claim filed: April 2, 1991. Amended Statement of Claim filed: October 8, 1991.

Claimant's Submission Agreement signed on: March 20, 1991.

Joint Statement of Answer filed by Respondents, Offerman & Co. and Richard Hogan on: September 18, 1991. Joint Amended Statement of Answer filed on or about: November 18, 1991.

Respondents, Offerman & Co. and Richard Hogan's Submission Agreements signed on: November 13, 1991.

HEARING INFORMATION

Hearing date: January 12, 1993 for two (2) sessions.

Hearing Location: Minneapolis, Minnesota.

CASE SUMMARY

Claimant George Myers ("Myers") alleged that Offerman & Co. ("Offerman"), through its agent, Respondent Richard Hogan ("Hogan") failed to act in accordance with Myers' stated investment objectives, and, purchased bonds, debentures, and securities which were unsuitable to Myers' goals. More specifically, Myers alleged that Hogan purchased a \$40,000 bond from Southmark Corporation for \$37,178.00 and a \$50,000.00 bond from Southmark Corporation for \$36,461.81, knowing that Myers needed the proceeds from said bonds to make a real estate balloon payment. Southmark Corporation later filed for bankruptcy. Myers also alleged that Hogan purchased \$40,000.00 in bonds from American Continental Corporation for \$39,621.39 on November 22, 1988 to mature on August 1, 1990, but that American Continental filed for Chapter 11 bankruptcy protection, and that Myers was never informed that these purchases would be risky. Myers alleged that any loss on American Continental Corporation is not part of his claim because he is part of a class action lawsuit. Myers also alleged that Hogan purchased subordinated debentures of S.E. Nichols, Inc. for \$27,099.17 but that S.E. Nichols, Inc. filed for Chapter 11 bankruptcy protection. Myers alleged that these purchases set forth above were mishandled.

In Myers' Amended Statement of Claim, Myers stated more specifically his allegations asserted in his Statement of Claim. Myers alleged that Hogan made the following additional investments which said companies later filed for Chapter 11 bankruptcy protection: three bonds from Munsingwear, Inc., a \$10,000.00 bond from U.S. Home Corporation, a \$10,000.00 bond from Orion Pictures, a \$9,000.00 bond from Texas Air, and a \$10,000.00 bond from Farm House Foods, Inc.

Respondents Offerman and Hogan generally denied the allegations set forth in the Statement of Claim. Offerman and Hogan alleged that Myers was an experienced businessman and that he rejected Hogan's recommendations to invest in zero coupon bonds and long-term treasury notes. Hogan and Offerman further alleged that any decline in value in Myers' portfolio is a result of Myers' decisions and of market conditions.

In their Amended Statement of Answer, Offerman and Hogan generally denied the allegations asserted in the Amended Statement of Claim. Offerman and Hogan alleged that Myers refused to place his money in more conservative securities. Offerman and Hogan also alleged that every security purchased by Myers in his IRA was pursuant to prospectus, which was provided to him prior to his purchasing.

RELIEF REQUESTED

Claimant requested an Award of compensatory damages against the Respondents, jointly and severally, in the sum of \$140,000.00, including pre-judgment interest, costs and disbursements, and for punitive damages. In his Amended claim, Claimant requested actual damages in an amount in excess of \$150,000.00, plus interest, attorney's fees, punitive damages, and such further relief deemed just and equitable.

Respondents requested that the Statement of Claim and the Amended Statement of Claim be dismissed with prejudice, costs, including attorney's fees and any other further relief.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that the Award in this matter may be executed by 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.

Respondents Offerman & Co. and Richard Hogan filed a Motion to Dismiss any and all claims relating to Myers' investments in American Continental Corporation with the NASD. The Direction of Arbitration denied the motion after review of the motion and all responses thereto. The Director informed the parties that they may re-assert their position to the arbitrators.

his claim
After review of the Claimant's Amended Statement of Claim in which Claimant withdrew ~~any cause of action~~ for American Continental Corporation, the Respondents Offerman and Co. and Richard Hogan withdrew their Motion to Dismiss any claims with respect to the Claimant's American Continental Corporation transactions.

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. The Claimant's Statement of Claim is denied and dismissed in its entirety;
2. Each of the parties shall bear their own costs and expenses incurred, including attorney's fees, other than those specifically enumerated under Forum Fees below.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed:

2 sessions X \$750.00 = \$1,500.00

Pursuant to Section 43(c) of the Code of Arbitration, the NASD shall retain the

nonrefundable filing fee in the amount of \$200.00, and shall retain the hearing session deposit in the amount of \$750.00 previously paid to the NASD by the Claimant.

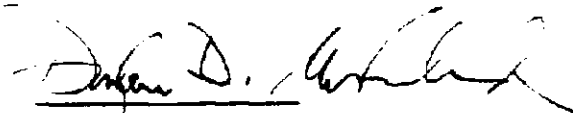
Additional forum fees in the amount of \$750.00 are assessed against the Respondent Richard Hogan.

Additional Forum Fees assessed by the panel are payable to the National Association of Securities Dealers, Inc.

Concurring Arbitrators' Signatures

Dated:

February 18, 1993


Douglas D. McFarland, Esq.
Public Arbitrator
Presiding Chair

Mica T. Duncan
Public Arbitrator
Panelist

Douglas J. Nesbit
Industry Arbitrator
Panelist

Date of Service by the NASD: _____

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Dated:

Douglas D. McFarland, Esq.
Public Arbitrator
Presiding Chair

02/19/93

Mica T. Duncan

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Public Arbitrator
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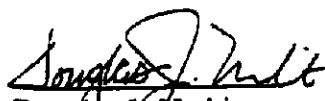
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Dated:

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Public Arbitrator
Presiding Chair

Mica T. Duncan
Public Arbitrator
Panelist

2/19/93


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