

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Otto Doornbos

No. 91-01044

Name of Respondents

Gruntal & Co., Inc.
Kenneth Scriba

REPRESENTATION OF PARTIES

For Claimant: Paul J. Sussman, Esq. of The Law Office of Paul J. Sussman.

For Respondents: Eric Hutner, Esq., Assistant General Counsel, Gruntal & Co., Inc.

CASE INFORMATION

Statement of Claim filed: April 2, 1991.

Claimant's Submission Agreement signed on: March 21, 1991.

Joint Statement of Answer filed by Respondents, Gruntal & Co., Inc. and Kenneth Scriba on: June 20, 1991.

Respondent Gruntal & Co., Inc.'s Submission Agreement signed on: June 19, 1991.

Respondent Kenneth Scriba has not filed a Submission to Arbitration.

HEARING INFORMATION

Hearing date: April 14, 1992.

Hearing Location: Chicago, Illinois.

CASE SUMMARY

Claimant Otto Doornbos ("Claimant") alleged: breach of fiduciary duty; unauthorized trades; misrepresentations and omissions; unsuitability; failure to supervise; violation of 18 U.S.C. Sections 1431, 1343, and 1962 (c); and violation of Sections 1962 (a) and (c) of RICO, 18 U.S.C. Section 1961 (a) and (c) by Respondents Gruntal & Co., Inc. ("Gruntal") and Kenneth Scriba ("Scriba"). The allegations arose out of transactions in MESA Oil and Gas Exploration limited partnership ("MESA"). Claimant alleged that upon learning of the unauthorized trade, on or about December of 1988, Claimant contacted Respondents Gruntal and Scriba, and was allegedly told that MESA would make substantial profits. Claimant also alleged that Respondent Scriba told him that the investment was safe and proper for Claimant's retirement status and investment history. Claimant further alleged that the investment was highly speculative, and that Respondents Gruntal and Scriba had notice of the failures of oil and gas limited partnerships. Moreover, Claimant alleged that Respondents Gruntal and Scriba failed to inform him of the volatility of oil and gas limited partnerships, and the substantial commissions Respondents received for selling the speculative investments. Claimant went on to allege that the investment did not comply with his stated investment objectives. Lastly, Claimant alleged that the misrepresentations and omissions were made with the specific intent to deceive or defraud Claimant or in reckless disregard of the truth, and were reasonably relied upon by Claimant.

In their joint Statement of Answer, Respondents Gruntal and Scriba denied each and every material allegation contained in the Statement of Claim. In addition, Respondents Gruntal and Scriba alleged that the decision to purchase MESA was made by Claimant after disclosure of information about the investment by Scriba.

RELIEF REQUESTED

Claimant requested:

- a. All compensatory damages for all losses Claimant suffered as a result of Respondent's misconduct;
- b. Any additional and consequential damages Claimant may establish at the arbitration hearing;
- c. Treble damages and attorneys' fees pursuant to RICO; and

d. Interest at the legal rate, forum fees and costs and reasonable attorneys' fees;

e. Other proper and just relief.

Respondents Gruntal and Scriba requested that the claim be dismissed in its entirety, and that the costs of this arbitration proceeding be assessed against the Claimant.

OTHER ISSUES CONSIDERED & DECIDED

Respondent Kenneth Scriba did not file with the NASD a properly executed Submission to Arbitration but is required to submit to arbitration pursuant to Section 12 of the NASD Code of Arbitration Procedure. Having answered the claim, Respondent Kenneth Scriba appeared and testified at the hearing, and shall be bound by the determination of the panel in this case.

The parties have agreed that the Award in this matter may be executed by a counterpart copy 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 original remains on file with the NASD.

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. Respondent, Gruntal & Co., Inc. is liable for, and shall pay to Claimant Otto Doornbos the sum of \$6,935.00 as satisfaction for his claims against Respondent Gruntal & Co., Inc. herein;

2. Respondent, Kenneth Scriba is liable for, and shall pay to Claimant, Otto Doornbos the sum of \$1,000.00 as satisfaction for his claims against Respondent, Kenneth Scriba herein;

3. Claimant Otto Doornbos' claims under RICO, and for attorneys' fees are hereby denied and dismissed with prejudice; and

4. Each party shall bear his own costs of this arbitration, except as set forth more fully below.

OTHER COSTS

Respondents Gruntal & Co., Inc. and Kenneth Scriba are jointly and severally liable for, and shall pay to Claimant Otto Doornbos the sum of \$275.00 which constitutes Claimants costs for filing this arbitration.

FORUM FEES

Pursuant to Section 43 (c) of the NASD Code of Arbitration Procedure, the following forum fees are assessed:

1 pre-hearing session x \$200.00 = \$200.00
1 hearing session X \$200.00 = \$200.00

Pursuant to Section 43 (c) of the Code of Arbitration, the NASD shall retain the nonrefundable filing fee in the amount of \$75.00, and shall retain the hearing session deposit in the amount of \$200.00 previously paid to the NASD by the Claimant.

Additional forum fees in the amount of \$200.00 are assessed jointly and severally against Respondents Gruntal & Co., Inc. and Kenneth Scriba.

Dated:

May 7, 1992

/s/Donald E. Casey
Donald E. Casey
Presiding Chair