

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Jane Anne Ellis

No. 91-02708

Name of Respondents

Long Grove Trading Company
Carolyn S. Bishop

REPRESENTATION

For Claimant: James J. Moylan, Esq. of James J. Moylan and Associates, Ltd., Chicago, Illinois.

For Respondents: Corri D. Fetman, Esq. of Levin & Ginsburg, Ltd., Chicago, Illinois.

CASE INFORMATION

Statement of Claim filed: August 28, 1991.

Claimant's Submission Agreement signed on: September 18, 1991.

Joint Statement of Answer filed by Respondents, Long Grove Trading Co. and Carolyn S. Bishop on: December 14, 1991.

Respondent Long Grove Trading Co.'s Submission Agreement signed on: December 12, 1991.

Respondent Carolyn S. Bishop's Submission Agreement signed on: December 12, 1991.

HEARING INFORMATION

Hearing Dates: August 27, 1992. Two (2) sessions.
October 29, 1992. Two (2) sessions.
October 30, 1992. Two (2) sessions.
December 17, 1992. Three (3) sessions.
December 18, 1992. Two (2) sessions.

Hearing Location: Chicago, Illinois.

CASE SUMMARY

Claimant, Jane Anne Ellis ("Claimant") alleged breach of contract, violation of Section 10(b) of the Securities Exchange Act of 1934, and Rule 10b-5 promulgated thereunder, unsuitable recommendations, misrepresentations and omissions, breach of fiduciary duty, aiding and abetting, respondeat superior, violation of Section 20 of the Exchange Act of 1934, violation of Section 12 of the Illinois Securities Law of 1953, and violations of Sections 451.810 and 451.601, of the Mich. Comp. Laws, (1989) by Respondents Long Grove Trading Co. ("LGT") and Carolyn S. Bishop ("Bishop"). The allegations arose out of transactions, in 1988, in the following securities: The Christen Group; CNL Income fund VI, Ltd; Windsor Park Properties, 6; N.Y. Life Government Mortgage Plus Limited Partnership; First Capital Income and Growth Fund; Vintech Vineyard Limited Partnership; Lyeth Winery, Ltd. Limited partnership; California Almond Investors, I Limited partnership; and Granada Investment, Ltd. Limited partnership. Claimant also alleged that these investments were unsuitable due to their high risk and illiquidity, and that Bishop knew Claimant's objectives were preservation of principal and long-term growth at the time the transactions were made. Claimant also alleged that she had relied on Bishop's recommendations to her detriment. Moreover, Claimant alleged that Bishop misrepresented or omitted to state the risks involved in the securities mentioned above. Lastly, Claimant alleged that LGT failed to supervise Bishop due to an alleged lack of procedures, supervisory reviews, and due diligence on the part of LGT.

In their Joint Statement of Answer, LGT and Bishop denied each and every material allegation contained in the Statement of Claim. In addition, LGT and Bishop set forth the following affirmative defenses:

1. Claimant fails to state a claim upon which relief may be granted.
2. Claimant's damages, if any, were caused by market forces over which respondents had no control.
3. Claimant failed to mitigate their damages, if any.
4. Claimant's claims are barred by the appropriate statutes of limitations.
5. Claimant's claims are barred by the doctrine of laches.
6. Claimant's claims are barred by the doctrine of estoppel.
7. To the extent that Claimant's claims are framed in contract as alleged in Count I, their claims based in tort are barred.

RELIEF REQUESTED

Claimant requested, in Counts I through X, an award against LGT and Bishop, jointly and severally, in the aggregate amount of at least \$85,000.00, plus interest, the costs of this action, or for rescission of the unsuitable investments, and for such other and further relief as the arbitrators deemed appropriate.

LGT and Bishop requested that Claimant's Statement of Claim be dismissed with prejudice, that LGT and Bishop recover their costs and expenses in this matter, and that the panel grant such other relief as they deemed proper.

OTHER ISSUES CONSIDERED & DECIDED

Respondent Long Grove Trading Co. did not file with the NASD a properly executed Submission to Arbitration pursuant to arbitration but is required to submit to arbitration pursuant to Section 12 of the Code and having answered the claim, appeared and testified at the hearing is bound by the determination of the arbitration panel on all issues submitted.

On August 19, 1992, Respondents LGT and Bishop filed a Motion to Dismiss Claimant's claim under Section 19(b) of the Securities Exchange Act. A response to the Motion had been received by the NASD in August of 1992, and forwarded to the panel. After review of the Motion, the response, hearing argument from the parties on August 27, 1992, and deliberation, the panel reserved their ruling until the end of the case.

On August 27, 1992, Respondents made a request for rescission on Windsor Park Properties, 6, and CNL Income fund VI, Ltd. Claimant agreed with the request, and therefore, Claimant's claims relating to these securities were dropped. The hearing proceeded on the claims relating to the other investments.

On October 30, 1992, Respondent LGT moved for a directed verdict. After hearing argument from the parties, and deliberation, the arbitrators reserved their ruling until the conclusion of this case.

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 received 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 undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent Long Grove Trading Company's Motion for a directed verdict is hereby denied and dismissed with prejudice.

2. Transactions in Lyeth, California Almonds, March-Granada and Vintech are hereby ordered to be rescinded. Respondents Long Grove Trading Company and Carolyn S. Bishop are jointly and severally liable for, and shall pay to Claimant, Jane Anne Ellis, the sum of \$75,025.00 upon the transfer of the right, title and interest in the above-mentioned securities, by the Claimant, to the Respondents jointly and severally.

3. Respondents Long Grove Trading Company and Carolyn S. Bishop are jointly and severally liable for, and shall pay to Claimant, Jane Anne Ellis, the sum of \$24,228.05 for attorneys' fees and costs expended herein. The authority for the award of attorneys' fees arises from Michigan Statute Section 451.810, and from Illinois Statute Section 13 [137.13].

4. Except as set forth herein, each party shall bear their own costs of this arbitration.

5. Each party shall bear the costs of this arbitration equally, as set forth more fully below.

FORUM FEES

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

11 hearing sessions X \$500.00 = \$5,500.00

Pursuant to Section 43(c) of the Code of Arbitration, the NASD shall retain the nonrefundable filing fee in the amount of \$150.00, and shall retain the hearing session deposit in the amount of \$500.00 previously paid to the NASD by the Claimant.

Additional forum fees in the amount of \$2,250.00 are assessed against Claimant.

Additional forum fees in the amount of \$2,750.00 are assessed jointly and severally against the Respondents.

Pursuant to Sections 43(c) and 30(b) of the Code, the NASD shall retain the postponement fee in the amount of \$500.00 previously paid to the NASD by the Respondents.

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

CONCURRING ARBITRATORS

Date:

December 18, 1992

/s/Jerome M. Katz
Jerome M. Katz
Presiding Chair
Public Arbitrator

December 18, 1992

/s/Frona Daskal
Frona Daskal
Public Arbitrator

December 18, 1992

/s/Sanford J. Prizant
Sanford J. Prizant
Industry Arbitrator

Date of Service by the NASD: _____