

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Katherine J. Smith

91-02972

Name of Respondents

Joseph Valicenti  
John T. Moran

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REPRESENTATION

Claimant Katherine J. Smith ("Claimant") was represented by Dan Druz, Esq. of the law firm of Carron and Koffler.

Respondent John T. Moran ("Moran") appeared pro se.

Respondent Joseph Valicenti ("Valicenti") declared personal bankruptcy before the hearing.

CASE INFORMATION

Statement of Claim filed on: September 26, 1991.

Claimant's Submission Agreement signed on: October 16, 1991.

Statement of Answer filed by Respondent Moran on: December 20, 1991.

Respondent John T. Moran's Submission Agreement signed on: December 19, 1991.

Respondent Valicenti's Submission Agreement signed on: February 23, 1992.

HEARING INFORMATION

Hearing Date/Session(s): May 5, 1992, 2 sessions.

Hearing Location: NASD offices located in New York City, New York.

CASE SUMMARY

Claimant alleged Respondent Valicenti, a former broker with J.T. Moran & Co. promoted investments inappropriate to the age, retirement status, general financial condition, and overall investment strategy of Claimant. Claimant further alleged Respondent Valicenti convinced Claimant to buy 7,500 additional shares of I.C.P. and J.T.M and he assured Claimant this was a good way to recap recent losses. Claimant further alleged that 10 days before JTM went bankrupt, Respondent denied any allegations that JTM was to go bankrupt. Claimant further alleged John T. Moran, as a licensed broker, had the responsibility to inform Claimant of the imminent closing of J.T. Moran & Co. and instead he encouraged Respondent Valicenti to convince Claimant to buy more shares of I.C.P. for which J.T. Moran & Co was a market maker.

Respondent Moran maintained that he was chief executive officer of J.T. Moran Financial Corp. (JTMFC), parent company of J.T. Moran & Co., the securities broker dealer with which Claimant maintained her account. Respondent further maintained JTMFC was a public company with several thousand stockholders and Respondent Moran's duty as CEO did not include direct fiduciary or similar responsibilities to customers of the firm.

Respondent Valicenti declared personal bankruptcy.

RELIEF REQUESTED

Claimant requested \$48,231 in compensatory damages.

Respondent Moran requested all claims be dismissed.

OTHER ISSUES CONSIDERED & 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 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 undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent John T. Moran be and hereby is liable and shall pay Claimant the sum of \$3000 plus interest for two years at the rate of 8% simple interest.
2. Each party shall bear their respective costs.

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FORUM FEES

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

2 sessions x \$500 = \$1000 less \$500 hearing session deposit waived =  
\$500 net due.

The Respondent John T. Moran be and hereby is liable and shall pay to the NASD the sum of \$500 to represent forum fees.

Claimant's hearing session deposit and claim filing fee was waived by the Director of Arbitration pursuant to Section 43(c) of the Code of Arbitration Procedure.

Concurring Arbitrator's Signature  
Name

Public/Industry

  
Alvin Meentemeier

\_\_\_\_\_  
Industry Arbitrator

Date of Decision: October 13, 1992

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Concurring Arbitrator's Signature  
Name

Public/Industry

  
\_\_\_\_\_  
Stan West/Chairman

\_\_\_\_\_  
Public Arbitrator

Date of Decision: October 13, 1992

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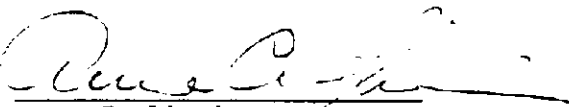
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Concurring Arbitrator's Signature  
Name

Public/Industry

  
Anne Cugliani

Public Arbitrator

Date of Decision: October 13, 1992