

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Claimant

Shauna Russell

vs.

NASD #91-4098

Respondents

J. Alexander Securities,
Chester Kruzell,
Gordon and Company

REPRESENTATION

For Claimant: Jeff Ferentz, Esq. of Greenbaum & Ferentz of Newport Beach, California

For Respondents: (J. Alexander Securities): Ralph Perry, Esq. of Graven, Perry, Block,
Brody & Qualls of Los Angeles, California
(C. Kruzell): Pro Se
(Gordon & Co.): Warren Miller, Esq. of Miller & Miller of Boston,
Massachusetts

CASE INFORMATION

Statement of Claim filed: December 30, 1991

Claimant's Submission Agreement signed: November 8, 1991

Statement of Answer filed by Respondents on: J. Alexander on April 1, 1992, J. R. Spence on April 2, 1992, Gordon & Co. on February 4, 1992, C. Kruzell on January 18, 1993.

Respondents' Submission Agreements signed on: J. Alexander on March 31 and May 12, 1992, J. R. Spence on March 27, 1992, Gordon & Co. on February 3, 1992. C. Kruzell did not file a Submission Agreement but did file an Answer, appeared at the arbitration and is subject to NASD jurisdiction in accordance with Section 12 of the NASD Code of Arbitration Procedure.

Page 1 of 5

HEARING INFORMATION

Prehearing Conference(s) Date(s)/Sessions: None

Hearing Date(s)/Sessions: February 3, 1992 (two sessions)
February 4, 1992 (two sessions)
February 5, 1992 (two sessions)
March 5, 1992 (three sessions) Total: Nine sessions

Hearing Location: Los Angeles, California.

CASE SUMMARY

Claimant alleged: Lack of suitability, breach of duty to supervise, breach of fiduciary duty, and violation of the Racketeer Influenced and Corrupt Organization Act of 1970 in the purchase of various stocks, including National Mine. Wean, Conchemco, Continental Materials, Pantasote, Plaza Group and Infinity Co. Claimant was 43 years old at the time, an unsophisticated investor, who relied on the investment expertise of respondents. She expressed her objectives to maintain conservative, income-producing investment accounts, which would insure income for the remainder of her retirement years.

Respondent J. Alexander Securities denied all of material facts alleged in the Statement of Claim and alleged: The only investment objectives disclosed was short and long term capital appreciation, claimant never spoke to anyone other than respondent Kruzell and did not have a discretionary account. Respondent Spence was a former broker but took no specific action on the account. Respondent Gordon & Co. is not associated with J. Alexander. Various affirmative defenses were also asserted.

Respondent Spence denied, generally and specifically, each and every allegation of wrongful, improper or actionable conduct. Spence and claimant settled prior to the arbitration hearing, pursuant to claimant's letter of January 25, 1993.

Respondent Gordon & Co. alleged: Its only relationship with claimant was an introduction to her by Kruzell on or about November 7, 1986. Claimant was interviewed by telephone and after getting an Option Financial and Suitability Statement signed by claimant, she was approved for trading in Gordon & Co. Options. Kruzell was authorized to trade claimant's account at Gordon & Co.; no decisions or trades were made by Gordon & Co. J. Alexander, Spence and Kruzell have never been associated with Gordon & Co. Respondent also alleged affirmative defenses. Gordon & Co.'s Motion to Dismiss itself as a respondent, made at the hearing, was granted by the panel.

Respondent Kruzell alleged: He did not represent himself as a broker who dealt in pension plans and claimant was informed about and authorized all purchases. He never stated he would cover claimant's losses and advised against investing in options. Kruzell did not coach claimant in her conversation with Gordon & Co. Claimant opened the option account at another individual's suggestion. In addition, Kruzell did not state that Spence had "a lot of experience in option trading."

RELIEF REQUESTED

Claimant requested:

1. Out-of-pocket losses of \$245,550;
2. Interest on the above amount;
3. Punitive damages of \$736,500;
4. Any other damages the panel deems just and proper.

Respondent requested:

None.

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.

Respondent Spence settled with claimant prior to the hearing, pursuant to claimant's letter of January 25, 1993.

Respondent Gordon & Co.'s Motion to Dismiss itself as a respondent, made at the hearing, was granted by the panel.

Respondent C. Kruzell did not file a Submission Agreement but did file an Answer, appeared at the arbitration and is subject to NASD jurisdiction in accordance with Section 12 of the NASD Code of Arbitration Procedure.

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 Chester Kruzell is liable for and shall pay claimant the sum of:
 - A) \$20,750.00, inclusive of interest, as compensatory damages;
 - B) \$17,500.00 as punitive damages (See California Civil Code Section 3294);
2. Pursuant to its motion, all claims against Respondent Gordon & Co. are dismissed;
3. All claims against Respondent J. Alexander Securities are dismissed in their entirety.
4. The parties shall each bear their respective costs including attorneys' fees.
5. Arbitrator Finkel concurs in the award but would add that he finds the application of the Statutes of Limitation as argued by J. Alexander would further bar recovery against that respondent.

OTHER COSTS

None.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following forum fees are assessed: The National Association of Securities Dealers, Inc. shall retain the \$1,000 hearing session deposit previously deposited by the claimant. Forum fees assessed against Respondent Chester Kruzell for \$8,000 calculated as follows: Nine hearing sessions times \$1,000 per session equals \$9,000, minus \$1,000 already paid by claimant as a hearing deposit.

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

ARBITRATION PANEL

Name

Public/Industry

Elliott Finkel, Esq.

Public Arbitrator

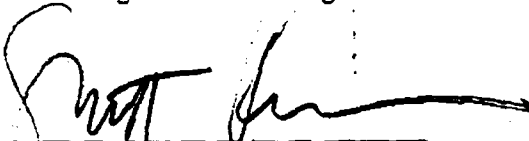
Robert G. Sether

Public Arbitrator

Sondra Taggart

Industry Arbitrator

Concurring Arbitrators' Signature



Elliott Finkel, Esq.

DATE SERVED: 04/21/93

Robert G. Sether

Sondra Taggart

3-29-93

Date of Decision: _____