

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Helen Gomes

92-00159

Name of Respondents

Addison Securities, Inc.  
Richard J. Koch

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REPRESENTATION

Claimant Helen Gomes ("Claimant") was represented by Martin J. Siegel, Esq.

Respondents Addison Securities, Inc. ("Addison") and Richard J. Koch ("Koch") were represented by Will S. Montgomery, Esq. of the law firm of Jenkins & Gilchrist.

CASE INFORMATION

Statement of Claim filed: January 15, 1992.

Claimant's Submission Agreement signed on: January 3, 1992.

Statement of Answer filed by Respondents Addison Securities, Inc. and Richard J. Koch on: February 28, 1992.

Respondent Addison Securities, Inc.'s Submission Agreement on: April 22, 1992.

Respondent Richard Koch did not execute a Submission Agreement.

HEARING INFORMATION

Pre-Hearing Conference: October 6, 1992, one session.

Hearing Date/Sessions: October 9, 1992, one session.

Hearing Location: NASD office, New York City, New York.

#### CASE SUMMARY

Claimant alleged that her grandson Respondent Richard Koch ("Koch") induced Claimant to deposit Eight Thousand Dollars (\$8,000) with Respondent Addison Securities, Inc. ("Addison"). Claimant alleged that Koch, with the knowledge and consent of Addison, commenced a pattern of unauthorized and extensive trading in Claimant's account. Claimant alleged that Respondents purchased unsuitable securities for Claimant. Claimants alleged that Respondents made misrepresentations on Claimant's New Account Form. Claimant alleged that the trading in her account was not for the Claimant's benefit but for the benefit of the Respondents Claimant alleged that Respondent Addison failed to properly supervise Koch as well as Claimant's account.

Respondents maintained that Claimant was fully aware of all transactions in the account and consented to those transactions. Respondents maintained that Claimant regularly received confirmations and monthly statements which detailed the accounts activity, and had never protested about the activity in the account. Addison maintained that Koch was adequately supervised by the management of Addison in all his dealings with regard to Claimant. Respondents denied that they have committed any wrongdoing whatsoever and maintained that Claimant's account was properly handled at all times.

#### RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$8,000 plus punitive damages and attorney's fees.

Respondents requested that Claimant be awarded no damages, and that this action be dismissed in its entirety.

#### OTHER ISSUES CONSIDERED & DECIDED

The Chairman allowed all parties to participate by the telephone via a conference call. Respondents' counsel also participated via telephone conference call.

Pursuant to the by-laws of the NASD, the Presiding Arbitrator determined that Richard Koch was required to submit to this arbitration, notwithstanding Koch's failure to submit an executed Submission Agreement. Therefore, Koch is bound by the rulings and determination of the Presiding Arbitrator.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrators has decided in full and final resolution of the issues submitted for determination as follows:

1. That Respondent Koch is liable to the Claimant and shall pay to the Claimant the sum of Five Thousand Four Hundred and 00/100 Dollars (\$5,400.00); inclusive of interest.
2. That all claims against Respondent Addison are denied in their entirety.
3. That the parties shall bear their respective costs including attorney's fees.

FORUM FEES

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

That the hearing session fee previously deposited by the Claimant is retained.

That the pre-hearing conference fee of \$200 shall be split equally between the Claimant and the Respondents so that the Claimant is assessed \$100 and Respondents, jointly and severally, assessed \$100.

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

Concurring Arbitrator Signature  
Name

Public/Industry

  
Michael E. Curan, Esq.

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Public Arbitrator

Dated: NASD, INC. December 2, 1992

**NASD**

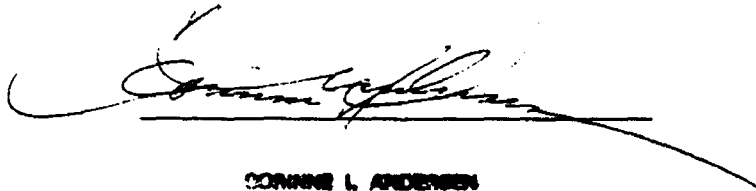
Arbitration

National Association of  
Securities Dealers, Inc.  
NASD Financial Center  
33 Whitehall Street  
New York, N.Y. 10004  
FAX (212) 858-4389

STATE OF: New York  
COUNTY OF: New York

S.S.:

On this 30<sup>th</sup> day of Nov., 1992, before me personally appeared Michael E. Curan,  
Esq. known and known to me to be the individual described in and who executed the foregoing  
instrument and be duly acknowledged to me that he executed the same.



CORINNE L. ANDERSEN  
Notary Public, State of New York  
No. 52-4743718  
Qualified in Suffolk County  
Cert. Filed in Nassau County  
Commission Expires March 31, 1993

8/31/93