

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Gertrude Hoffman, as Trustee for the
Ira Hoffman Revocable Trust and as Trustee for
the Gertrude Hoffman Revocable Trust

Case No. 92-00877

Name of Respondent(s)

Gruntal & Co., Inc.
The GMS Group, Inc.
Jerome J. Solomon

REPRESENTATION

For Claimant, Gertrude Hoffman as Trustee for the Ira Hoffman and Gertrude Hoffman Revocable Trusts ("Hoffman"): Robert Pearce, Esq. of Lerner & Pearce.

For Respondents, The GMS Group, Inc. ("GMS"): Gruntal & Co. Inc. ("Gruntal") and Jerome Soloman ("Soloman"): David Rappaport, Esq. of Gruntal.

CASE INFORMATION

Statement of Claim filed on: March 12, 1992. Claimant's Submission Agreement signed on: March 6, 1992.

Respondents' Statement of Answer filed on: May 28, 1992. Respondents' Submission Agreement signed on: May 27, 1992 by Edward Bao on behalf of Gruntal, and May 22, 1992 by Soloman, and on May 26, 1992 by Timothy Donohue on behalf of GMS.

HEARING INFORMATION

On February 10 and 11, 1993, in Fort Lauderdale, Florida, pre-hearings conference lasting two sessions were conducted via telephone conference call. The hearing on February 10, 1993 was with an arbitrator and the hearing on February 11, 1993 was without an arbitrator.

On February 17, 1993 and March 26, 1993, in Fort Lauderdale, Florida, hearings lasting four sessions were conducted.

CASE SUMMARY

Claimant alleged that Respondents were liable for: violation of Chapter 517 of the Florida Statutes; fraud; breach of fiduciary duty; negligence; and, breach of contract. Claimant alleged that she had instructed Solomon to purchase only AAA rated bonds; that Solomon misrepresented the quality of the bonds he purchased for Claimant; Solomon misrepresented that some of the bonds were backed by municipal or state governments; and, Solomon failed to apprise Claimant when the bonds' issuers began to experience financial problems.

Respondents denied all allegations of wrongdoing and alleged that: Claimant wanted to sacrifice quality for higher interest; Claimant never stated that she wanted only AAA rated bonds; all but one of the bonds recommended to Claimant were investment grade; and, Solomon never represented that the bonds were AAA rated.

RELIEF REQUESTED

Claimant requested damages in excess of \$57,000, plus interest, punitive damages, attorney's fees, and costs.

Respondents requested dismissal of the claim, plus costs and attorney's fees.

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

1. Respondents are found not liable and, therefore, all claims against them are hereby dismissed.
2. Claimant's request for attorney's fees, costs, and punitive damages is denied.
3. Respondents' request for attorney's fees and costs is denied.

OTHER COSTS

The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding.

FORUM FEES

1. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount of \$2,300 (one pre-hearing conference with an arbitrator x \$300 plus four sessions x \$500 per session).

2. Claimant is hereby assessed \$2,300 for which the NASD shall retain the \$500 previously deposited in partial satisfaction thereof leaving a balance due of \$1,800 payable to the National Association of Securities Dealers, Inc.

3. The NASD shall retain the non-refundable filing fee of \$150 paid by the Claimant.

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

Concurring Arbitrators' Signatures

/s/
Phillip E. Norman

Industry

/s/
J. Phillip Knight

Public

Dissenting Arbitrator's Signature

Arbitrator, John Hearn, dissents as to paragraph #2 of the "Forum Fees" and would assess \$1,150 against Claimant and \$1,150 against the Respondents, jointly and severally, and otherwise concurs in the decision

/s/
John J. Hearn, Esq.

Public

Date of Decision: May 21, 1993