

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Bonnie White

92-00881

Name of Respondent

Roney & Co.  
Bruce A. Herrick

REPRESENTATION

For Claimant Bonnie White ("Claimant"): Peter H. Hull, a sole practitioner.

For Respondent Roney & Co. ("Roney") and Bruce Herrick ("Herrick"): Robert N. Rapp, of Calfee Halter et al.

CASE INFORMATION

Statement of Claim filed: March 13, 1992.

Amended Statement of Claim filed: November 9, 1992.

Claimant's Submission Agreement signed on: December 10, 1992.

Joint Statement of Answer filed by Respondents on: June 30, 1992.

Joint Answer to Amended Statement of Claim filed by Respondents on: December 4, 1992.

Respondent Roney & Co.'s Submission Agreement signed on: June 25, 1992.

Respondent Bruce Herrick's Submission Agreement signed on: June 5, 1992.

HEARING INFORMATION

Hearing Date/Session: December 10, 1992/2 sessions

Hearing Location: NASD, Inc./Cleveland, OH.

CASE SUMMARY

Claimant alleged that on the advice of Herrick she transferred her municipal bonds to a PW account, whereby Herrick told Claimant he had an easy way to increase the value of her account to \$1,000,000.00 in five (5) years. Claimant alleged Herrick's investment strategy was to sell short speculative derivative investments (market index future options). Claimant alleged her account was transferred to Roney in December 1988 when Herrick moved to Roney.

Claimant alleged Herrick entered false information on the Roney Customer Option Account Information and Agreement form; recommended unsuitable investments for her, in particular, Herrick traded standard and Poors Index Options from January 1989 through October 1989; churned her account; breached the fiduciary duty he owed to her; and violated the NASD rules of Fair Practice, Article III, Section 19(e) Prohibition Against Guarantees.

Claimant alleged Roney failed to properly supervise Herrick; that Roney and Herrick breached or fell below the standard of care owed to her in placing her

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in market index options and misrepresented the index options purchased in her account.

Respondent alleged neither Roney nor Herrick engaged in any conduct constituting a violation of the NASD Rules of Fair Practice. Respondents denied they breached any applicable duty owed to Claimant. Respondents asserted that she authorized each transaction; that each transaction was consistent with her profile and investment experience and involved minimal financial risk. Respondents asserted that the allegation of Claimant concerning Herrick's guaranteeing the performance of her investment was false. Respondents maintained Roney did not fail to properly supervise Claimant's account. Respondents asserted Herrick recommended suitable purchases and that he never misrepresented any material fact to Claimant. Further, Respondents asserted Claimant was aware of the status of her account. Respondents asserted Claimant's churning allegation was unfounded and did not reach any applicable standard of care in connection with Claimant's account.

#### RELIEF REQUESTED

Claimant requested: actual damages in the amount of \$34,000.00, plus interest; punitive damages in the amount of \$340,000.00; and attorneys' fees.

Respondent requested: the Panel render an Award in this matter dismissing the claim in its entirety; and forum costs.

#### OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that a handwritten, signed award may be entered. In this case, the parties have agreed to receive a conformed copy 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. Respondents Roney & Co. and Bruce Herrick are hereby jointly and severally liable in the amount of \$5,000.00, inclusive of interest;
2. Claimant's claims against Respondents Roney & Co. and Bruce Herrick for punitive damages are denied;
3. All other claims are denied;
4. Each party shall bear its own expenses, including attorneys' fees.

#### FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the NASD shall retain the \$200.00 non-refundable filing fee previously deposited by Claimant and the following Forum fees are assessed.

2 sessions X \$750.00 = \$1500.00 minus hearing session deposit of \$750.00 = net \$750.00 due.

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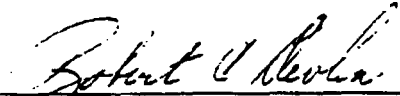
Forum Fees Assessed Against:

1. Claimant is hereby liable and shall pay to the NASD the sum of 750.00; however in lieu of further payment, the NASD shall retain Claimant's \$750.00 hearing session deposit;

2. Respondents are hereby jointly and severally liable and shall pay to the NASD the sum of \$750.00.

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

Arbitrator Signature

 ~~XXXX~~ EXECUTED  
Robert C. Devlin/Public Arbitrator

Date of Decision: December 29, 1992

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Arbitrator Signature

  
Benjamin E. Segel, Public Arbitrator

Date of Decision: December 29, 1992

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Arbitrator Signature



Kenneth Miller/Industry Arbitrator

Date of Decision: December 29, 1992