

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Alexander & Sonja Kuchkuda

Case No. 92-01203

Name of Respondent(s)

J.W. Gant and Associates, Inc.
Ronald Jones
Adam Tobias

REPRESENTATION

For Claimants: Alexander Kuchkuda and Sonja Kuchkuda ("the Kuchkudas"): Bradley W. Hogreve, Esq. of Bradley W. Hogreve, P.A.

For Respondent, J.W. Gant and Associates, Inc. ("JWG"): Jeffrey A. Rosen, Esq. of DeMartino Finkelstein Rosen & Virga.

For Respondent, Ronald Jones ("Jones"): William Randolph Klein, Esq.

CASE INFORMATION

Statement of Claim filed: April 3, 1992. Claimants' Submission Agreement signed: April 3, 1992.

Respondents, JWG and Jones', Statement of Answer filed: June 19, 1992. Respondents' Submission Agreements signed: June 17, 1992 by Patrick Driver on behalf of JWG and on June 18, 1992 by Jones.

HEARING INFORMATION

On April 14 and September 13, 1993, in Tampa, Florida. hearings lasting four (4) sessions were conducted.

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CASE SUMMARY

Claimants alleged that: Respondents were informed of their safe low risk investment objectives; Respondents assured Claimants that non-speculative, low risk securities would be recommended for purchase; Claimants had no prior experience in dealing with securities; Respondents engaged in unauthorized trading of Claimants account; in contrast to Claimants' wishes and financial objectives, Respondents purchased certain stocks which was unsuitable for Claimants account; JWG failed to properly supervise its employees; and Respondents liability is premised upon the following: State and Federal Securities Act Violations; common law fraud; breach of fiduciary duty; and, gross negligence.

Respondents denied all allegations of wrongdoing and alleged the affirmative defenses of: the Statement of Claim fails to state a claim upon which relief can be granted; the losses were caused by market forces; non-mitigation of damages; assumption of risk; failure to exercise due diligence; unjustifiable reliance; waiver and estoppel and joint account do not require the consent of all its owners before a transaction can be effected.

RELIEF REQUESTED

Claimant requested unspecified actual, treble and other punitive damages, plus costs, attorney's fees and pre-judgment interest.

Respondents requested dismissal of the Claim.

OTHER ISSUES CONSIDERED & DECIDED

1. Plaintiff voluntarily dismissed without prejudice Defendant, Adam Tobias from this matter.
2. The parties have agreed that the Award in this matter be executed in counterpart copies or that a handwritten, signed Award 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. Respondent, Jones, is found liable and shall pay to Claimants the amount of \$41,085.59 inclusive of interest.
2. Respondent, J.W. Gant, is also found liable and shall pay to Claimants the further amount of \$41,085.59 inclusive of interest.
3. Respondent, J.W. Gant is also found liable and shall pay to Claimants the further amount of \$250,000 for punitive damages. The Panel bases its authority to award punitive damages on the Federal Arbitration Act and the court decisions from the 11th Circuit Court of Appeals authorizing arbitration panels to award punitive damages. The Panel finds that JWG in violating State and Federal Securities Laws, acted willfully and egregiously and with fraud and such gross negligence as to indicate a wanton disregard for the rights of the Claimants.
3. Claimants request for costs and attorney's fees is denied.

OTHER COSTS

The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding including attorney's fees.

FORUM FEES

1. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount of \$3,000 (four sessions x \$750 per session).
2. Respondents, JWG and Jones, are hereby assessed \$3,000 jointly and severally of which \$750 shall be paid directly to the Claimants as a refund of their hearing session deposit, and \$2,250 of which shall be paid to the National Association of Securities Dealers, Inc.
3. The NASD shall retain the non-refundable filing fee of \$200 paid by the Claimants.


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4. Respondents, JWG and Jones, shall jointly and severally, reimburse the Claimants \$200 for the non-refundable filing fee.

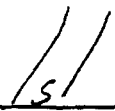
Fees are payable to the National Association of Securities Dealers, Inc.

Concurring Arbitrators' Signatures



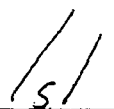
Brian G. Mooney, Esq.

Public



William G. Kline

Public



James D. Bruner

Industry

Date of Decision: 1-6-94