

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Gilbert W. & Myrna M. Jensen

NASD Arbitration
No.92-01520

Name of Respondent

Gary C. Smith

REPRESENTATION

For Claimants: Claimants represented themselves.

For Respondent: S.A. Beem, Esq., Salt Lake City, Utah

CASE INFORMATION

Statement of Claim filed: May 4, 1992

Claimants' Submission Agreement signed: April 27, 1992

Statement of Answer filed: December 11, 1992

Respondents' Submission Agreement signed: None submitted.

HEARING INFORMATION

Hearing Dates/Sessions: December 18, 1992 - 1 session

Hearing Location: Salt Lake City, Utah

CASE SUMMARY

Claimants alleged that Respondent failed to disclose material information, failed to provide a subscription memorandum for their investment in promissory and convertible notes of First Productivity Corporation, that Respondent had a conflict of interest through his association with First Productivity Corporation as a director and shareholder and through his association with First Productivity's principals, that First Productivity was not incorporated at the time the investment was made and, after becoming incorporated, continued to do business after being dissolved by the State of Utah, and that there was an interrelationship with other affiliated corporations.

Respondent denied the allegations of wrongdoing, and asserted that he was not hired by Claimants, that he made adequate disclosures, that there was no causal connection between the alleged conduct and the damages asserted, that if there was any wrongdoing others were involved, that there was no reliance by Claimants on him, and that the affiliated corporations were separate entities.

RELIEF REQUESTED

Claimants requested damages of \$30,000.00.

Respondent requested dismissal.

OTHER ISSUES CONSIDERED & DEALT

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 original remain on file with the NASD.

AWARD

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

1. Respondent is liable for and shall pay to Claimants the sum of \$30,000.00 plus interest at 15% per annum from the date of the award until paid.
2. The parties shall each bear their respective costs and fees, including attorney's fees.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the NASD shall refund the \$400.00 hearing session fee previously deposited by Claimants.

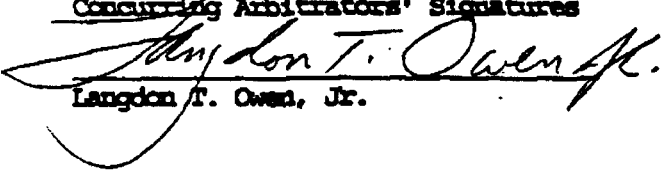
Respondent Gary Smith is assessed \$400.00 in forum fees for 1 session. Fees are payable to the National Association of Securities Dealers, Inc.

ARBITRATORS

Name
Langdon T. Owen, Jr.

Public/Industry
Public Chairperson

Concurring Arbitrators' Signatures


Langdon T. Owen, Jr.

January 4, 1993

Served 1/7/93