

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Roberta D. Loomis

92-01731

Name of Respondents

Stratton Oakmont, Inc.
David Margules
Jordan R. Belfort
Kenneth S. Greene

REPRESENTATION

For Claimant, Roberta D. Loomis ("Loomis"): Carl L. Distefano, Esq., of Fox & Horan.

For Respondents, Stratton Oakmont, Inc. ("Stratton"); David Margules ("Margules"); Jordan R. Belfort ("Belfort"); and, Kenneth S. Greene ("Greene"): Ronald Shindler, Esq., of Fowler, White, Burnett, Hurley, Banick & Strickroot.

CASE INFORMATION

Statement of Claim filed on May 26, 1992. Claimant's Submission Agreement signed on May 19, 1992.

A joint Statement of Answer filed by Respondents on August 14, 1992.

Respondent, Stratton's Submission Agreement and Corporate Acknowledgment signed on September 10, 1992 by Paul F. Byrne on behalf of the firm.

Respondent, Belfort's Submission Agreement signed on August 12, 1992;

Respondent Greene's Submission Agreement signed on September 10, 1992.

HEARING INFORMATION

On June 1, 1993, in Fort Lauderdale, Florida, a prehearing conference lasting one (1) session was conducted via telephone conference call with an arbitrator.

On December 2, 20, 21, 22, 1993 and January 17, 1994, in Fort Lauderdale, Florida, a hearing lasting 10 sessions were conducted.

CASE SUMMARY

Claimant alleged that Respondents engaged in systematic and continuous manipulation of the market for the stock in Nova Capital Inc./Visual Equities (Nova) and that manipulation in connection with trading in Nova for Claimants account was a direct and proximate cause of losses in Nova trading suffered by her. Claimant further alleged: unauthorized trading in her account at Stratton in the following stocks and/or warrants: DVI Financial Corp. (DVI), Ropak Laboratories (Ropak), and Consolidated Freightways; unsuitability of investments; failure to supervise; churning; fraud; misrepresentation of both the background of the Stratton Brokerage, its principals and employees; and misrepresentation of the risks and suitability of the investments purchased for Claimants account.

Respondents denied all allegations of wrongdoing contained in the Statement of Claim and alleged that: Claimant's objectives in establishing an account with Respondents was speculation and trading profit; said account was established by Claimant's husband; Claimant's husband was a knowledgeable and sophisticated investor; all claims in both stock and warrants were made at the direction and instruction of the Claimant or her husband; Respondent and its affiliates neither controlled nor manipulated the market for Nova securities; and the risks of all transactions engaged in were fully disclosed to Claimant. Respondent set forth the affirmative defenses of: Statute of limitations; contributory negligence; assumption of risk; failure to mitigate damages, ratification; waiver; laches and estoppel.

RELIEF REQUESTED

Claimant requested actual damages of not less than \$65,000; not less than \$250,000 for punitive damages; plus attorneys fees; interest; costs and disbursements of this arbitration.

Respondents requested dismissal of the claim and that the expenses of this arbitration be assessed against Claimant.

OTHER ISSUES CONSIDERED & DECIDED

1. Respondents, Belfort and Greene, were dismissed as parties to this proceeding by order of the Panel on December 22, 1993;

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

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

OTHER COSTS

The parties shall each bear their own costs incurred in connection with this proceeding including attorneys' fees.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount of \$7,800.00 (ten hearing sessions X \$750.00 + one pre hearing session X \$300.00)

1. Claimant is hereby assessed \$3,900.00 for which the NASD shall retain the \$750.00 previously deposited in partial satisfaction thereof leaving a balance due to the NASD of \$3,150.00, payable to the National Association of Securities Dealers, Inc.
2. Respondents, Stratton and Margules are hereby jointly and severally assessed forum fees in the amount of \$3,900.00 payable to the NASD, Inc.

Page 4
Award-#92-01431

3. The NASD shall retain the non-refundable filing fee of \$200.00 paid by the Claimant.

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

ARBITRATION PANEL

Concurring Arbitrators' Signatures

Name

/s/
Ronald Thomas Spann, Esq.

Public/Chairman

/s/
Vernon M. Pabalis

Public/Panelist

/s/
Gary W. Pollack, Esq.

Industry/Panelist

Date of Decision: March 7, 1994