

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

John Rinello
Michael Caraher
John McLean

92-02734

Name of Respondents

Gilford Securities Incorporated
Kevin McCarthy

REPRESENTATION

For Claimants: Christopher C. Fountain, Esq.

For Respondent, Gilford Securities, Inc.: Michael Kalmus, Esq, of Kalmus & Matuscello.

For Respondent, Kevin D. McCarthy: Kevin D. McCarthy appeared pro-se.

CASE INFORMATION

Statement of Claim filed: August 13, 1992.

Claimant's Submission Agreement signed on: August 3, 1992.

Joint Statement of Answer filed by Respondents, Gilford Securities, Inc. and Kevin D. McCarthy on: October 21, 1992.

Respondent, Gilford Securities, Inc.'s Submission Agreement signed on: September 17, 1992.

Respondent, Kevin D. McCarthy's Submission Agreement signed on: October 21, 1992.

HEARING INFORMATION

Hearing Date/Sessions: December 21, 1993 - Two Sessions.

Hearing Location: NASD Offices - New York, New York.

CASE SUMMARY

Claimants, John J. Rinello ("Rinello"), Michael Caraher ("Caraher") and John McLean ("McLean") allege that each of them were sold a highly speculative new issue of Sports Leisure, Inc. which was underwritten by Respondent, Gilford Securities, Inc. ("Gilford"). Claimants allege that the broker in each case was Respondent, Kevin D. McCarthy ("McCarthy") who misrepresented the investment as safe and who persuaded each of the Claimants to purchase the stock at the maximum margin ratio. Claimants allege that the stock plummeted in value, the margin was called and the stock liquidated, resulting in great loss to each of the Claimants.

Respondents, Gilford and McCarthy maintain that McCarthy explained the risk factors of purchasing Sports Leisure and the mechanics of a margin transaction. Respondents maintain that McCarthy did not guarantee the stock's performance, nor did he assure the Claimants that they could not lose any money. Respondents maintain that each Claimant was furnished with an independent research report and earnings forecast. Respondents maintain that Caraher and McLean both signed margin agreements, so that they can not claim ignorance regarding the terms of the agreement. Further, Respondents maintain that all three Claimants were sophisticated investors.

RELIEF REQUESTED

Claimant John J. Rinello requested damages in the amount of \$23,000.00; Michael S. Caraher requested damages in the amount of \$46,500.00; John McLean requested damages in the amount of \$24,316.25. Each Claimant requested costs, expenses and disbursements, including attorneys fees and interest at the rate of 8%.

Respondents requested that the Claimants' claim be dismissed in its entirety and that the Claimants be assessed the costs of this proceeding.

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

- 1) The Claimants have failed to prove the allegations in their Statement of Claim against the Respondents. Therefore, the Claimants' claim is hereby dismissed with prejudice.
- 2) Each party shall bear their respective costs of this action, including attorney's fees.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed

\$150.00	Non-refundable filing fee
\$1,000.00	Hearing Session fees (2 sessions x \$500.00)

- 1) Total forum fees in the amount of \$1,150.00 are hereby assessed against the Claimants. Claimants shall be entitled to offset this amount with the \$650.00 previously deposited with the NASD. Claimants are therefore directed to pay the balance of \$500.00 to the NASD, Inc.

Concurring Arbitrator's Signature


Eugene R. Cochrane

Industry Arbitrator

Date of Decision: February 7, 1994

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:

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Concurring Arbitrator's Signature


Edward T. Hill

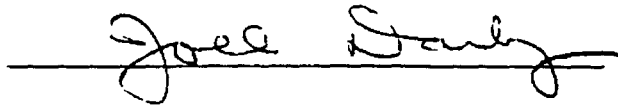
Public Arbitrator

Date of Decision: February 7, 1994

STATE OF NEW YORK
COUNTY OF Westchester

S.S.:

On this 2nd day of February, 1994, before me personally appeared Edward T. Hill known to me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.



DARBY JOEL
Notary Public, State of New York
No. 301775
Qualified in Westchester County
Commission Expires Dec 31, 1994

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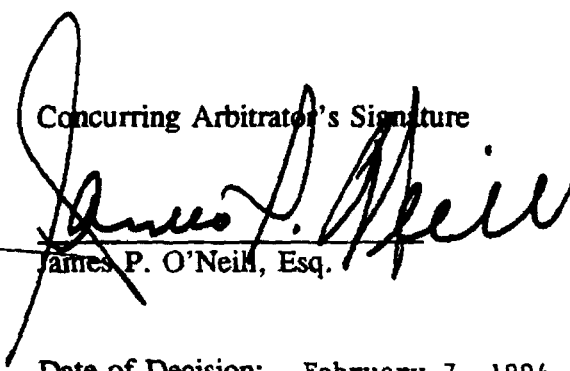
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Concurring Arbitrator's Signature


James P. O'Neil, Esq.

Public Chairperson

Date of Decision: February 7, 1994

STATE OF NEW YORK
COUNTY OF *New York*

S.S.:

On this *2nd* day of February, 1994, before me personally appeared James P. O'Neill known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same.

Virginia T. Alasio

VIRGINIA T. ALASIO
Notary Public, State of New York
No. 31-4952378
Qualified in New York County
Commission Expires June 19, 19*95*

STATE OF NEW YORK

COUNTY OF *Suffolk*

S.S.:

On this *3rd* day of February, 1994, before me personally appeared Eugene R. Cochrane known to me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

Gloria Boyer Phrasse

GLORIA BOYER PHRASSE
Notary Public, State of New York
My Comm. Exp. 8/25/94

Qualified in Suffolk County
Commission Expires 8/25/94