

**N.A.S.D. AWARD**

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

DEC 1 1993

In the Matter of the Arbitration Between

Name of Claimant

Kenneth E. Houghtelling and  
Sonya Houghtelling

and

92-03170

Name of Respondent

Consolidated Investment Services, Inc.

**REPRESENTATION OF PARTIES**

Kenneth E. Houghtelling and Sonya Houghtelling ("Claimants") were represented by William D. Nelson, Esq. and J. Louise Betcher, Esq. of Robinson, Waters, O'Dorisio & Rapson, Denver, Colorado.

Consolidated Investment Services, Inc. ("Respondent") was represented by Shaun T. Gloude, Esq., Littleton, Colorado.

**CASE INFORMATION**

The Statement of Claim was filed on or about September 21, 1992. Response to Motion to Dismiss was dated December 30, 1992. Amended Statement of Claim was filed on or about May 27, 1993. Submission Agreement of Claimants Kenneth E. Houghtelling and Sonya Houghtelling was signed on September 17, 1992.

Statement of Answer was filed by Respondent on or about October 23, 1992. Motion to Dismiss was filed on or about December 22, 1992. Respondent's Reply to Claimants Response to Motion to Dismiss was dated January 25, 1993. Motion for Reconsideration of Respondent's Motion to Dismiss was dated February 8, 1993. Respondent's Amended Answer was filed on or about March 22, 1993. Second Amended Answer of Respondent was filed on or about September 8, 1993. Submission Agreement of Respondent was signed on November 9, 1992 by Norman P. Rounds.

**HEARING INFORMATION**

The hearing was held on Monday, November 8, 1993 in Denver, Colorado for two (2) sessions and Friday, November 19, 1993 for one (1) session for a total of three (3) sessions.

### **CASE SUMMARY**

Claimants alleged that they were unsophisticated investors and reposed complete trust in Randy Romero, an employee of Respondent. The allegations include that Mr. Romero induced them into taking loans against the equity in their residence to generate liquid funds to make the purchases in Jetvac 1984-I Limited Partnership, Jetvac 1985-V Limited Partnership, and Jetvac 1985-VI Limited Partnership; that all securities purchased by the Claimants were extremely speculative, of high risk and completely illiquid; that Mr. Romero failed to disclose these facts to them; and that Mr. Romero specifically stated that the investments were safe, secure and appropriate investments for them. Claimants further alleged that the Respondent breached its fiduciary duty to them and violated Colorado securities laws.

Respondent denied the allegations against it and asserted the following affirmative defenses: that the Statement of Claim fails to set forth a claim upon which relief can be granted; Claimants assumed the risk of their investments; negligence; failure to plead fraud with the required particularity; and the claims are barred by the doctrine of *res judicata*.

### **RELIEF REQUESTED**

In the Amended Statement of Claim, Claimants requested an award against Respondent Consolidated Investment Services, Inc. in the amount of \$11,100.00, together with statutory interest thereon, costs and reasonable attorney's fees (as provided in C.R.S. §11-51-125(2)(3) and appropriate exemplary damages. Claimants further requested an award in the additional amount of \$11,356.49 which was paid to the United States Internal Revenue Service, \$1,587.99 which was paid to the states of Colorado and Nebraska for additional income taxes, together with statutory interest thereon, costs and reasonable attorney's fees and costs in bringing this action.

In its Second Amended Answer, Respondent requested that the Amended Statement of Claim be dismissed as to it and for such other relief as the panel may deem warranted

### **OTHER ISSUES CONSIDERED & DECIDED**

This matter was originally filed pursuant to §13 of the N.A.S.D. Code of Arbitration Procedure.

The Motion to Dismiss filed by the Respondent in this matter was **denied** after considering the written submission of the parties.

The parties have agreed to receive a conformed copy of the award while the original remains on file with the N.A.S.D.

**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:

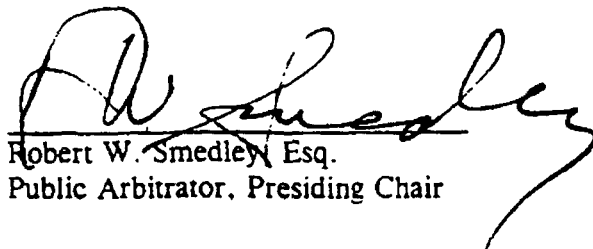
1. Respondent Consolidated Investment Services, Inc. shall be and hereby is liable for and shall pay to the Claimants Kenneth E. Houghtelling and Sonya Houghtelling the sum of *Ten thousand dollars* (\$10,000.00).
2. Respondent Consolidated Investment Services, Inc. shall be and hereby is liable for and shall pay to the Claimants Kenneth E. Houghtelling and Sonya Houghtelling the sum of *Two hundred sixty one dollars and eighty seven cents* (\$261.87) as costs.
3. Respondent Consolidated Investment Services, Inc. shall be and hereby is liable for and shall pay to the Claimants Kenneth E. Houghtelling and Sonya Houghtelling the sum of *Three thousand seven hundred fifty dollars* (\$3750.00) as attorney's fees. In making this award of attorney's fees, the undersigned arbitrator has considered the arguments and authorities cited by the parties.
4. Each party shall bear its own costs, expenses and attorney's fees incurred in this matter not specifically enumerated herein.

**FORUM FEES**

Pursuant to §43(c) of the N.A.S.D. Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. ("N.A.S.D.") shall retain the non-refundable filing fee in the amount of \$75.00 and shall retain as forum fees the hearing session deposit in the amount of \$75.00 previously deposited with the N.A.S.D. by the Claimant. Respondent shall pay to the N.A.S.D. the sum of \$150.00.

Forum fees are calculated at the rate of \$75.00 per hearing session.

The N.A.S.D. shall retain postponement fees in the amount of \$75.00 previously deposited with the N.A.S.D. by the Respondent. Fees are payable to the National Association of Securities Dealers, Inc.

  
Robert W. Smedley Esq.  
Public Arbitrator, Presiding Chair

Dated:

12-10-93