

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Names of Claimants

Wayne and Nadia Lattin. ind/beneficiary

92-03356

Names of Respondents

Murray, Wilt, Bantit, Inc.

John D. Wilt

Gregory T. Murray

Theodore Bantit

Patricia L. Wilt

REPRESENTATION

Claimants, Wayne and Nadia Lattin were represented by Robert J. Pohlman, Esq. and James E. Brophy, III, Esq. of Ryley, Carlock & Applewhite, Phoenix, Arizona.

Respondents, John D. Wilt, Gregory T. Murray and Theodore Bantit were represented by Raymond S. Heyman, Esq, and Ashley D. Adams, Esq, of O'Connor, Cavanagh, Anderson, Westover, Killingsworth & Beshears, P.A., Phoenix, Arizona.

CASE INFORMATION

The Statement of Claim was filed with the National Association of Securities Dealers, Inc. ("NASD") on October 5, 1992.

Claimants's Submission Agreement was signed on December 3, 1992 by Wayne and Nadia Lattin.

The Statement of Answer was filed with the NASD by Respondents, John D. Wilt, Gregory T. Murray and Theodore Bantit on February 2, 1993.

Respondents, John Wilt, Gregory Murray and Theodore Bantit did not file executed Submission Agreements with the NASD.

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HEARING INFORMATION

The Hearing took place on August 2, 1993 and August 3, 1993 and lasted for four (4) hearing sessions.

The Hearing Location was Scottsdale, Arizona.

CASE SUMMARY

Claimants, Wayne and Nadia Lattin ("the Lattins") alleged that Respondent, John D. Wilt ("Wilt") breached his fiduciary duties to the Lattins from time to time beginning in January of 1991 through April of 1992 by churning the IRA and Profit Sharing accounts over which he had discretion. The Lattins alleged that Wilt engaged in excessive trading for those accounts in view of the financial resources of the Lattins so as to generate commissions for himself. In addition the Lattins asserted that Wilt breached his fiduciary duty by investing in high risk, speculative securities which were unsuitable for the Lattins.

Respondents, Wilt, Gregory T. Murray ("Murray") and Theodore Bantit ("Bantit") denied the allegations of the statement of claim and asserted affirmative defenses including, but not limited to, estoppel and failure to mitigate their damages, if any.

RELIEF REQUESTED

The Lattins requested compensatory damages of \$110,775.00, exemplary and punitive damages, reasonable attorney's fees pursuant to A.R.S. Section 12-341.01, costs, interest, treble damages of not less than \$332,325 and such other relief as the panel deemed just and proper.

Respondents, Wilt, Bantit and Murray requested dismissal of the Statement of Claim, attorney's fees and costs and such other relief as was just and proper.

OTHER ISSUES CONSIDERED & DECIDED

Potential Respondent, Patricia Wilt, and Murray, Wilt, Bantit, Inc., non-members of the NASD, refused to voluntarily submit to the jurisdiction of the NASD for this arbitration. Accordingly, the only party respondents are Gregory Murray, Theodore Bantit and John Wilt. The panel also finds that the failure to file executed submission agreements by the respondents was negated by their answer, appearance at the hearing and testimony. They will be bound by the panel's determination on all issues submitted.

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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 claims asserted by the Lattins are denied and dismissed in their entirety; and,
2. The parties shall each bear their respective costs, expenses and attorney's fees incurred in this matter.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed. The NASD will retain the \$200.00 non-refundable claim filing fee and the \$750.00 hearing session deposit paid to the NASD by the Lattins. The Lattins are assessed additional Forum Fees in the amount of \$750.00 and Wilt, Banitt and Murray are assessed additional Forum Fees in the amount of \$1500.00. Forum Fees were assessed on the basis of \$750.00 per hearing session for four (4) hearing sessions.

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Additional Forum Fees assessed to the parties are payable to the National Association of Securities Dealers, Inc.

Concurring Arbitrators' Signatures
Name

/S/ Bernard W. Slater
Bernard W. Slater, Esq.
Presiding Chairperson
Public Arbitrator

August 28, 1993
Dated

/S/ George N. Roy
George N. Roy
Panelist
Public Arbitrator

September 1, 1993
Dated

/S/ Gary R. Marby
Gary R. Marby
Panelist
Industry Arbitrator

August 30, 1993
Dated

Date award served on the parties: September 14, 1993