

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Robert L. Moore and Deanna Moore

92-04308

Name of Respondents

**Randy K. Pittman
Park Avenue Securities, Inc.**

REPRESENTATION

For Claimants at the hearing: Steven A. Heath, Esq. of Mysock & Chevallier, Tulsa, Oklahoma.

For Respondent Park Avenue Securities, Inc. at the hearing: Matt M. Dowling, Esq. and Elaine M. Dowling, Esq. of Dowling & Dowling, Oklahoma City, Oklahoma.

For Respondent Randy K. Pittman at the hearing: Pro Se.

CASE INFORMATION

Statement of Claim filed: December 22, 1992. Claimant's Submission Agreement signed on: December 22, 1992.

Statement of Answer filed by Respondent, Park Avenue Securities, Inc., on: February 25, 1993. Respondent, Park Avenue Securities, Inc.'s, Submission Agreement signed on: February 24, 1993.

HEARING INFORMATION

Hearing Date: June 16, 1993 for two (2) sessions.

Hearing Location: Oklahoma City, Oklahoma.

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CASE SUMMARY

Claimants allege that Respondent Pittman ("Pittman") was an account representative and stockbroker for Respondent Park Avenue Securities, Inc. ("PASI") and that Pittman's actions, insofar as they relate to Claimants, were either done within the scope of his employment by PASI or were ratified or adopted by PASI. Claimants further allege that Pittman, while acting as the account representative for Claimants, wrongfully took the following actions:

1. engaged in numerous unauthorized trades and transactions involving Claimant's accounts;
2. gave inaccurate or incomplete investment advice regarding a SEP account;
3. willfully and maliciously forged Claimant's names to an Authorization to Journal Securities or Funds whereby Pittman removed \$10,000 from Claimant's Personal Account and deposited same into an account owned by Pittman;
4. willfully and maliciously forged Claimants' names to a withdrawal slip thereby converting \$10,000 of Claimants' funds to his own account.

Claimants allege that they were damaged by the wrongful actions of Pittman as set forth above and that such actions constitute a breach of Pittman's fiduciary duty owed to Claimants.

Respondent, PASI, denies that the Claimants have been damaged in any way by the actions of either Pittman or PASI.

RELIEF REQUESTED

Claimants requested damages in an amount in excess of \$15,000.00, pre-judgment and post-judgment interest, all costs of this action, attorney's fees, and punitive damages of \$100,000.00.

Respondent, PASI, requested that the Statement of Claim be denied.

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OTHER ISSUES CONSIDERED & DECIDED

Upon review of the file, the panel has determined that Respondent Randy Pittman has been properly served with the Statement of Claim pursuant to Sections 13 and 25 of the Code of Arbitration Procedure ("the Code"). The panel also determined that Respondent Pittman had received due notice of the hearing as required under Section 26 of the Code, and that the arbitration of the matter would proceed pursuant to Section 29 of the Code.

Respondent Randy Pittman did not file with the NASD a properly executed submission to arbitration but is required to submit to arbitration pursuant to Section 12 of the Code, but having executed a written account agreement to arbitrate any dispute arising out of the relationship of the parties, is required to submit to arbitration and therefore is bound by the determination of the panel on all issues submitted.

The parties present at the hearing 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. Respondent, PASI, shall be and hereby is liable for and shall pay to the Claimants, Robert Moore and Deanna Moore, actual damages in the sum of One Thousand Two Hundred Twenty Five Dollars and No Cents (\$1,225.00). PASI is liable for its negligent failure to supervise its employee, Randy Pittman;
2. Respondent Randy Pittman shall be and hereby is liable for, and shall pay to the Claimants, Robert Moore and Deanna Moore, actual damages in the sum of Two Hundred Dollars (\$200.00);
3. Respondent Randy Pittman shall be and hereby is liable for, and shall pay to the Claimants, Robert Moore and Deanna Moore, punitive damages in the sum of Twenty Thousand Dollars (\$20,000.00). The panel finds that the acts of Pittman were willful, wanton and fraudulent. The panel awarded punitive damages pursuant to state statute;

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4. The request for interest is denied;

5. Each of the parties shall bear their own costs and expenses incurred, including attorney's fees, other than those specifically enumerated herein.

FORUM FEES

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

2 hearing sessions x \$400.00 = \$800.00

Pursuant to Section 43c of the Code of Arbitration, the NASD shall retain the nonrefundable filing fee in the amount of \$120.00, and shall retain the hearing session deposit in the amount of \$400.00 previously paid to the NASD by the claimant.

Additional forum fees in the amount of \$400.00 are assessed against Respondent, PASI.

Additional forum fees assessed by the panel are payable to the National Association of Securities Dealers, Inc.

By the Arbitration Panel, Concurring:

Dated:

8-13-93

James Golden
Presiding, Public Arbitrator

Clall I. Cunningham III
Public Arbitrator

Allen F. Staples
Public Arbitrator

Date Award Served by the NASD: _____

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By the Arbitration Panel, Concurring:

Dated:

James Golden
Presiding, Public Arbitrator

Cliff I. Cunningham III
Public Arbitrator



Allen F. Staples
Public Arbitrator

Date Award Served by the NASD: _____

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Additional forum fees in the amount of \$400.00 are assessed against Respondent, FASI.

Additional forum fees assessed by the panel are payable to the National Association of Securities Dealers, Inc.

By the Arbitration Panel, Concurring:

Dated:

8/1/93



James Golden
Presiding, Public Arbitrator

Clell I. Cunningham III
Public Arbitrator

Allen F. Staples
Public Arbitrator

Date Award Served by the NASD:

8/25/93