

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Virginia M. Myers

93-00197

Name of Respondent

Dain Bosworth Incorporated

REPRESENTATION

For Claimant at the hearing: Richard H. Krochok, Esq. of Rider, Bennett, Egan & Arundel, Minneapolis, Minnesota.

For Respondent at the hearing: James B. Lynch, Esq. of Dorsey & Whitney, Minneapolis, Minnesota.

CASE INFORMATION

Statement of Claim filed: January 18, 1993. Claimant's Submission Agreement signed on: January 12, 1993.

Statement of Answer filed by Respondent on: March 17, 1993. Respondent's Submission Agreement signed on: January 29, 1993.

HEARING INFORMATION

Hearing Dates/Sessions: July 29, 1993 for two (2) sessions;
July 30, 1993 for two (2) sessions.

Hearing Location: Minneapolis, Minnesota.

CASE SUMMARY

Claimant, Virginia Myers ("Myers") alleged that Respondent Dain Bosworth, Inc. ("Dain") was negligent, breached fiduciary duties, and failed to act. More specifically, Myers alleged that Dain failed to investigate and act upon

her expressed concerns regarding certain annuity investments she held in the Midwest Life Insurance Company ("Midwest Life"). Myers alleged that at first, Dain took no action and then ultimately caused her to lose her entire investment by assuring her that they had investigated Midwest Life and that it was a secure investment.

Respondent alleged that the losses suffered by Myers were not the result of any act or omission by Dain, but rather resulted from the looting of the investment portfolio held by Midwest Life by the owners of Midwest Life. Dain alleged that they could not possibly have foreseen the collapse of Midwest Life due to the fraud and other illegal acts of the principals of that company.

RELIEF REQUESTED

Claimant requested actual damages in the amount of at least \$166,500.00, plus attorney's fees, costs, and disbursements.

Respondent requested that the Statement of Claim be dismissed in its entirety.

OTHER ISSUES CONSIDERED & DECIDED

At the hearing, counsel for Claimant made an oral request to Amend the Statement of Claim to add a claim of violation of Minnesota Deceptive Trade Practices Act (M.S. Sec. 325B.43 et seq.); a claim for civil penalty pursuant to M.S. Sec. 325 F.71; attorney's fees, and costs pursuant to M.S. Sec. 325 F.71 Subd. 4; and punitive damages pursuant to M.S. Sec 549.20. The panel granted the request to amend.

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. Respondent Dain Bosworth shall be and hereby is liable for, and shall pay to the Claimant, Virginia Myers, actual damages in the sum of Two Hundred Thousand Two Hundred Ninety One Dollars and Fifty Cents (\$200,291.50). Claimant Virginia Myers shall assign to Respondent, Dain Bosworth, all claims

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and rights that she might have at the date hereof against Midwest Life Insurance Company and/or its successors.

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

FORUM FEES

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

4 sessions X \$750.00 = \$3000.00 minus hearing session deposit of \$750
= net \$2250.00 due.

Additional Forum fees Assessed By the Panel Against Claimant in the sum of \$750.00 and against the Respondent, Dain Bosworth in the sum of \$1500.00.

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

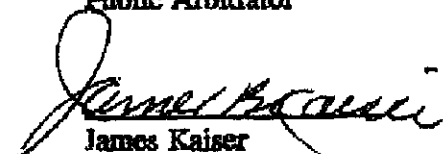
By The Arbitration Panel:

Dated:

D. Randall Blohm, Esq.
Presiding, Public Arbitrator

James H. Colburn
Public Arbitrator

Aug 24, 1993


James Kaiser
Industry Arbitrator

Date Award Served By The NASD: 8-31-93

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By The Arbitration Panel:

Dated:

D. Randall Blohm, Esq.
Presiding, Public Arbitrator

8/23/93

James H. Colburn
James H. Colburn
Public Arbitrator

James Kaiser
Industry Arbitrator

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By The Arbitration Panel:

Dated:

8-22-92

D. Randall Blohm
D. Randall Blohm, Esq.
Presiding, Public Arbitrator

James H. Colburn
James H. Colburn
Public Arbitrator

James Kaiser
James Kaiser
Industry Arbitrator

Date Award Served By The NASD: 8-31-92