

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of Arbitration Between

Name of Claimant

Dionne Riley

vs.

Case # 93-00789

Name of Respondents

J. Gregory & Company
Vincent Brennan

REPRESENTATION

Claimant appeared pro se.

For Respondents: Jeffrey S. Rosen, Esq. of DeMartino Finklesten of Rosen & Virga,
Washington, DC.

CASE INFORMATION

Statement of Claim filed: March 30, 1993.

Claimant's Submission Agreement signed on: February 20, 1993.

Joint Statement of Answer and Motion to Dismiss filed by Respondents J. Gregory & Co and
Vincent Brennan on: June 18, 1993.

Respondent, J. Gregory & Co.'s Submission Agreement signed on: September 20, 1993.

Respondent Vincent Brennan's Submission Agreement signed on: August 31, 1993.

HEARING INFORMATION

Hearing Dates/Sessions: December 22, 1993 - 2 sessions

Hearing Location: NASD offices located in New York, New York.

CASE SUMMARY

Claimant alleged that on October 22, 1992 she received a phone call from Respondent Vincent Brennan of Respondent J. Gregory & Co. in order to solicit business from her, whereby she informed him she was not interested in buying any stock. Claimant further alleged that Respondent Brennan then informed her that in his opinion the stocks that were in her account were not "going to move" and that she was "down tremendously in her positions" and that he could sell those stocks and put her in something that he felt would make her money back. Claimant contended that Respondent Brennan called her back once a day for five consecutive days. Claimant alleged that on January 18, 1993, she discovered that her stock had been sold and another purchased whereby she called Respondent J. Gregory and was informed her Croy and VAC stock were sold and Jupiter was purchased at 3 1/4 and now it was 1 1/4 ask and 7/8 on bid. Claimant contended that Respondent Brennan insisted that she authorized him to sell her stocks and buy Jupiter, which was not the case.

Respondents maintained that the statement of Claim fails to state a claim. Respondents further maintained that Claimant suffered no injury and Respondents have restored Claimant's account to its original position by reversing the Jupiter trade and returning to her account 700 shares of VAC stock and 500 shares of Croy Stock. Respondents further maintained that Claimant assumed the risk of trading securities and on October 22, 1992 she authorized the sale of the stock in her account and authorized the purchase of the Jupiter stock.

RELIEF REQUESTED

Claimant requested the original stocks back and punitive damages of \$10,000.00 and costs.

Respondent requested all claims be dismissed and costs.

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's Motion to Dismiss be and hereby is granted.

2. Respondent, J. Gregory & Co. and Vincent Brennan be and hereby are liable jointly and severally and shall pay Claimant the sum of \$150.00 to represent costs.
3. Respondents J. Gregory & Co. and Vincent Brennan be and hereby are liable, jointly and severally and shall pay Claimant the sum of \$275.00 to represent forum fees.

FORUM FEES

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

2 sessions x \$200.00 = \$400.00 less \$200.00 hearing session deposit = \$200.00 net due.

Respondents J. Gregory & Co and Vincent Brennan be and hereby are liable jointly and severally and shall pay the NASD the sum of \$200.00 to represent forum fees.

The NASD shall retain the \$75.00 filing fee and \$200.00 hearing session deposit previously paid by Claimant.

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

ARBITRATORS' SIGNATURE

Robert D. Herschmann
Robert D. Herschmann, Esq.
Public Arbitrator

Date of Decision: January 13, 1994

Award #93-00789

STATE OF *FLORIDA*

SS:

COUNTY OF *DADE*

On this 7 day of January, 1994, before me personally appeared Robert D. Herschmann, Esq. known and 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.

James J. Ayers
NOTARY PUBLIC STATE OF FLORIDA
COMMISSION NO. C83619
MY COMMISSION EXP. DEC. 15, 1997