

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Dennis P. and Carolyn A. Nicholas

93-00959

Name of Respondents

Offerman & Co., Inc.
Terry Laymon

REPRESENTATION

For Claimants, Dennis P. and Carolyn A. Nicholas: Mr. and Mrs. Offerman appeared pro-se at the hearing.

For Respondent, Offerman & Co., Inc.: Patricia S. Bartholomew, Esq. of Offerman & Co., Inc.

For Respondent, Terry Laymon: Terry Laymon appeared pro-se at the hearing.

CASE INFORMATION

Claimants' Submission Agreement signed on February 26, 1993.

Claimants' Statement of Claim filed on February 24, 1993.

Respondent, Offerman & Co., Inc.'s Submission Agreement signed on May 4, 1993.

Respondent, Offerman & Co., Inc.'s Statement of Answer filed on May 4, 1993.

Respondent, Terry Laymon did not initially file an executed submission agreement or a statement of answer, but executed a Submission Agreement at the hearing on September 3, 1993.

HEARING INFORMATION

Hearing Dates/Sessions: September 3, 1993 - Two sessions.

Hearing Location: American Arbitration Association - Southfield, MI.

CASE SUMMARY

Claimants allege that Respondent, Terry Laymon ("Laymon") and Claimant, Carolyn A. Nicholas ("C. Nicholas") worked in the same building and that Laymon recommended that C. Nicholas invest in Larken Income Plus Limited Partnership II ("Larken") which was a private placement. Claimants allege that they received a letter from Mr. Laymon which highlighted the investment. Claimants allege that pursuant to the representations by Laymon, they made the investment in Larken. Claimants allege that they discovered that a subscription document had been altered. Claimants stated that one alteration was made at the insistence at Laymon who told C. Nicholas to alter the indication of their cash on hand from \$9,000 to \$19,000. In addition, Claimants allege that there are other alterations to this subscription document that were made by Laymon to qualify the Claimants as suitable investors for this arbitration. Claimants allege that Laymon was dishonest and used deceptive information in order to sell them the investment.

Respondent, Offerman & Co., Inc. ("Offerman") alleges that Claimant, Dennis P. Nicholas ("D. Nicholas") was a registered representative of Offerman and he was recruited and hired by Laymon. Offerman alleges that D. Nicholas believed that Laymon agreed to rebate the commissions on the sale of Claimants' units. Offerman maintains that this caused D. Nicholas to leave Offerman with a negative attitude toward Laymon. Offerman maintains that they never promised rebates of commissions to D. Nicholas and that they never authorized the falsification of any subscription documents.

Respondent, Terry Laymon did not submit an answer, but appeared at the hearing and maintained that Claimant, D. Nicholas requested this transaction, and that at no time did he recommend it to Mr. Laymon.

RELIEF REQUESTED

Claimants requested damages in the amount of \$29,500.00.

Respondent, Offerman & Co., Inc. requested that the Claimants' Claim be dismissed with prejudice, and that they be awarded costs and disbursements in this action including assessment of all forum fees against the Claimant.

OTHER ISSUES CONSIDERED AND DECIDED

At the hearing, Claimants asserted a Motion to Bar Respondent, Terry Laymon from testifying or presenting a defense in this matter. After hearing the arguments of the parties, the panel denied the motion.

Also at the hearing, Respondent, Offerman & Co., Inc. asserted a Motion to Dismiss the Claim. After hearing the arguments of the parties, the panel denied this motion.

AWARD

After considering the pleading, the evidence and the arguments of the parties, the undersigned arbitrators have decided in full and final resolution of the issues presented for determination as follows:

1. Respondents, Offerman and Co., Inc. and Terry Laymon are hereby jointly and severally liable and shall pay to the Claimants the amount of \$5,000.00 (FIVE THOUSAND DOLLARS AND NO CENTS). This amount is exclusive of interest.
2. Respondents, Offerman and Co., Inc. and Terry Laymon are hereby jointly and severally liable and shall pay to the Claimants interest on the above amount pursuant to MCLA 600.6013. Interest is to run from February, 1993 until the date the award is paid.
3. Each party shall bear their respective costs of this action, including attorneys' fees.

FORUM FEES

Pursuant to Section 43 of the NASD Code of Arbitration Procedure, the following forum fees are hereby assessed:

\$100.00	Non-refundable filing fee
\$800.00	Hearing session fees (2 sessions x \$400.00)

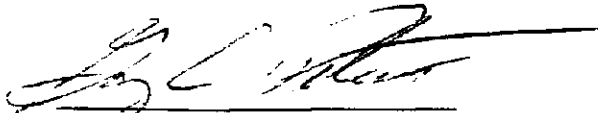
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1. Respondent, Offerman & Co., Inc. is hereby directed to re-imburse to the Claimants the amount of \$500.00 that Claimants previously deposited with the NASD, Inc.
2. Respondent, Terry Laymon is hereby assessed the balance of the forum fees in the amount of \$300.00 and shall pay this amount to the NASD, Inc.

Concurring Arbitrator's Signature
Name

Industry Arbitrator



Gary C. Peters, Esq.

Date of Decision: November 29, 1993

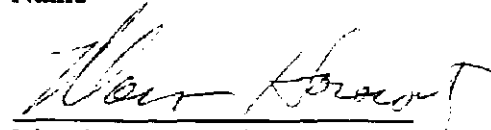
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Concurring Arbitrator's Signature
Name

Public Arbitrator


Marvin I. Horowitz, Esq.

Date of Decision: November 29, 1993

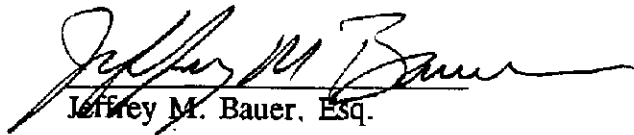
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Concurring Arbitrator's Signature
Name

Public Chairperson


Jeffrey M. Bauer, Esq.

Date of Decision: November 29, 1993