

**NATIONAL ASSOCIATION OF SECURITIES DEALERS
AWARD**

In the Matter of the Arbitration Between

Helen Entenmann, Individually and as Trustee
of the Helen Entenmann Trust

Claimants

v.

NASD No. 93-1069

Crowell, Weedon & Co. and
Mark E. Graham

Respondents

Representation

For Claimant: Jeff Ferentz of Greenbaum & Ferentz of Newport Beach, CA

For Respondent: John Blue, Esq., Kevin Farmer, Esq. and James Sobieski, Esq. of Adams,
Duque and Hazeltine

Case Information

Statement of Claim filed: March 22, 1993

Claimant's Submission Agreement signed: January 11, 1993

Statement of Answer filed on: May 21, 1993

Respondent's Submission Agreement signed on: Crowell, Weedon & Co. - May 19, 1993
Mark E. Graham - May 6, 1993

Hearing Information

Prehearing Conference Date(s)/Sessions: None

Hearing Date/Sessions: March 8, 1994/ two
March 9, 1994/three

Hearing Location: Beverly Hills, CA

Case Summary

Claimant alleged:

Fraud, deceit and omission of material fact, unsuitability, breach of fiduciary duty, intentional misrepresentation of fact, negligent misrepresentation, breach of implied covenant of good faith and fair dealing and failure to supervise in the purchase of a number of investments, including IDM PIC ITV, MPS Government Securities and Burke Private Income II.

Claimant, whose husband died in 1980 and who inherited a large sum of money, was solicited to open an account by Crowell, Weedon & Co. (Crowell) in 1988. She opened an account with respondent Mark Graham (Graham) and told him her objectives were preservation of principal, safety and income, and that she was totally disabled and could never work again. Graham verbally guaranteed he could "always" get her money back "anytime she needed it." When claimant instructed Graham to sell part of her investments to pay taxes, he advised her "there was no market" for her securities and he had never represented the partnerships could be sold at any time.

Respondents alleged:

No liability on the merits of the causes of action itemized in the Statement of Claim. Claimant is a sophisticated investor who taught an investment seminar for retired persons. Claimant asked for the type of investments in issue and affirmatively chose to invest in them after receiving a prospectus for each. Graham followed claimant's direction at all times and never exercised any discretion. Graham attempted to learn claimant's financial condition but was told by her that she would not disclose those matters to him. However, from his conversations with her and visit to her home, it was apparent that Entenmann's financial resources were sizeable. Claimant never mentioned a disability and Graham never observed any problem with her mental or physical abilities.

At no time did claimant tell Graham that any funds represented her life savings or had to be invested with absolute safety of principal. Graham denies telling Entenmann that any investments were absolutely safe, that Crowell was a market maker, that he could always find a buyer anytime she wanted to sell or that he could always get her money back anytime she needed it. Claimant never told Graham of a tax obligation, but did tell him she wanted to sell her house in order to move. There was never a time for the duration of her account at Crowell when claimant could not sell anything in her account.

Relief Requested

Claimant requested:

1. Compensatory damages of at least \$177,582.16;
2. Lost profits to be determined;
3. Attorneys' fees and consulting fees;
4. Prejudgment and postjudgment interest at the highest legal rate;
5. Punitive damages in the amount of at least \$525,000;
6. Costs of suit;
7. Such further relief as deemed proper.

Other Issues Considered and Decided

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. All claims are dismissed;
2. The claim for punitive damages is dismissed;
3. The parties shall each bear their respective attorney's fees;
4. The parties shall each bear their respective costs.

Other Costs

None

Forum Fees

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following forum fees are assessed: The National Association of Securities Dealers, Inc., waived the \$1,000 hearing session deposit previously paid by the claimant. Forum fees are assessed against:

Respondent Crowell, Weedon & Co., only, for \$5,000

calculated as follows: five hearing sessions at \$1,000/hearing session, equals \$5,000.

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

Arbitration Panel

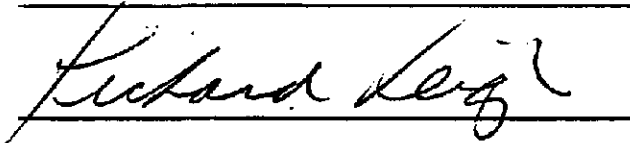
Name

Audrey Ruben, Esq.
Frank Hodgson
Richard Leigh

Public/Industry

Public Chairperson
Public Panelist
Industry Panelist

Concurring Arbitrators' Signatures



Date of Decision:

Date Served: 03/21/94