

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

RECEIVED
JUN 28 1994
ARBITRATION CHICAGO

In the Matter of the Arbitration Between

Name of Claimant

Pascuala Y. Cabrerros

and

93-01076

Name of Respondent

Kenneth Puckett

REPRESENTATION OF PARTIES

Claimant, Pascuala Cabrerros was represented at the hearing by Steven Samson, Esq. of Law Offices of Steven Samson, Evanston, Illinois.

Respondent, Kenneth Puckett was not at the hearing but he was represented by Michael J. Falconer, Esq. of the Law Offices of Michael J. Falconer, Chicago, Illinois.

CASE INFORMATION

The Statement of Claim was filed on March 5, 1993. Submission Agreement of Claimant was signed on January 29, 1993.

Respondent Kenneth Puckett did not file an Answer.

HEARING INFORMATION

A pre-hearing conference was held on April 28, 1994 for one session and on May 2, 1994 for one session.

The hearing was held on June 17, 1994 in Chicago, Illinois for a total of one session.

CASE SUMMARY

Claimant Pascuala Cabrerros ("Claimant") alleged that she had no sophistication or knowledge concerning financial transactions or investments and nevertheless, Respondent Kenneth Puckett ("Puckett") committed fraud, engaged in material misrepresentations, made false statements, and omitted to disclose material information about Claimant's investments while in the course of his employment with Multi-Financial Securities Corporation. Claimant alleged that Puckett, while engaging in the above, violated the Illinois Criminal Code Illinois Revised Statutes Chapter 38, Section 16-1.3(g) concerning the financial exploitation of an elderly or disabled person and violated the Illinois Consumer Fraud and Deceptive Business Practices Act.

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RELIEF REQUESTED

Claimant requested compensatory damages in excess of \$120,000.00 for all losses claimant suffered as a result of the misconduct; any additional punitive and consequential damages, including damages pursuant to Illinois Revised Statutes Chapter 38, Section 16-1.3(g); plus interest, forum fees, attorney's fees and costs, and other proper and just relief.

OTHER ISSUES CONSIDERED & DECIDED

Respondent Kenneth Puckett did not file with the N.A.S.D. a properly executed submission to arbitration but is required to submit to arbitration pursuant to §12 of the N.A.S.D. Code of Arbitration Procedure (the "Code") and having appeared through his representative at the hearing, is bound by the determination of the arbitration panel on all issues submitted.

Counsel for Respondent Kenneth Puckett filed a Motion To Consolidate Pascuala Cabrerros' claim with other pending claims before the N.A.S.D. against Puckett. By Order dated May 2, 1994, the arbitration panel denied the motion, recused itself, and a new panel was selected to hear the claim on the merits.

Claimant had initially included Multi-Financial Securities Corporation as a Respondent in the arbitration claim. Prior to the hearing, Claimant settled his claim with Multi-Financial and Multi-Financial was dismissed as a party to the proceeding. The hearing proceeded against Kenneth Puckett only.

At the hearing held on June 17, 1994, counsel for Respondent Kenneth Puckett filed an Objection to Trial in Puckett's Absence. Counsel for Claimant was provided with the opportunity to respond. After considering the parties respective arguments, the panel denied the motion and the arbitration was ordered to proceed pursuant to Section 29 of the N.A.S.D. Code of Arbitration Procedure.

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 N.A.S.D.

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 Kenneth Puckett shall be and hereby is liable for, and shall pay to the Claimant, compensatory damages in the amount of One Hundred Forty One Thousand, Five Hundred Dollars and Eighty Eight Cents (\$141,500.88);

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2. Respondent Kenneth Puckett shall be and hereby is liable for, and shall pay to the Claimant, treble damages in the amount of Four Hundred Twenty Four Thousand, Five Hundred Dollars and No Cents (\$424,500.00). Treble damages are awarded pursuant to Ill. Rev. Stat. Chapter 38, Section 16-1.3(g);

3. Respondent Kenneth Puckett shall be and hereby is liable for, and shall pay to the Claimant, attorney's fees in the amount of Fifty Thousand Dollars (\$50,000.00). Attorney's fees are awarded pursuant to Ill. Rev. Stat. Chapter 38, Section 16-1.3(g);

4. Claimant's request for interest is denied;

5. Each of the parties shall bear their own costs and expenses other than those specifically enumerated under Forum Fees below.

FORUM FEES

Pursuant to §43(c) of the N.A.S.D. Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. ("N.A.S.D.") shall retain the non-refundable filing fee in the amount of \$200.00 and shall retain as forum fees the hearing session deposit in the amount of \$750.00 previously deposited with the N.A.S.D. by the Claimant.

Forum fees are calculated at the rate of \$750.00 per hearing session and \$300.00 for each prehearing conference. Two prehearing conference sessions plus one hearing session equals \$1350 minus the \$750 which was previously deposited with the N.A.S.D. = \$600 net due. The panel has ordered that Claimant pay the \$600 to the N.A.S.D.

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

By The Arbitration Panel:

Saul A. Epton
Saul A. Epton, Esq.
Presiding, Public Arbitrator

Dated: 6/22/94

Edward C. Statton, Esq.
Public Arbitrator

Richard C. Romano
Industry Arbitrator

Date Award Served By The NASD: 7/1/94

2. Respondent Kenneth Puckett shall be and hereby is liable for, and shall pay to the Claimant, treble damages in the amount of Four Hundred Twenty Four Thousand, Five Hundred Dollars and No Cents (\$424,500.00). Treble damages are awarded pursuant to Ill. Rev. Stat. Chapter 38, Section 16-1.3(g);

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

By The Arbitration Panel:

Dated:

Saul A. Epton, Esq.
Presiding, Public Arbitrator

Edward C. Statton, Esq.
Public Arbitrator

Richard C. Romano
Industry Arbitrator

6/27/94

Date Award Served By The NASD: 7/1/94

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

By The Arbitration Panel:

Dated:

Paul A. Epton, Esq.
Presiding, Public Arbitrator

Edward C. Statton, Esq.
Public Arbitrator

Richard C. Romano
Industry Arbitrator

6/23/94

Award Served By The NASD: 7/1/94