

## **N.A.S.D. AWARD**

### **NATIONAL ASSOCIATION OF SECURITIES DEALERS**

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#### **In the Matter of the Arbitration Between**

##### **Name of Claimants**

Mary Lou Sievert, Vito & Helen Ventrella,  
Leon & Beatrice F. Leyendecker, Patricia Ann Koppers,  
John & Marjorie Jaegar, Bernice Bloom,  
Mark & Marianne Cotter, John R., Sylvia K., & Renetta Rimicci

93-03059 (consolidated with  
93-04014)

##### **Name of Respondents**

Multi-Financial Securities Corporation, and  
Kenneth Puckett

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#### **REPRESENTATION OF PARTIES**

Claimants Mary Lou Sievert ("Sievert"), Vito & Helen Ventrella ("the Ventrellas"), Leon & Beatrice F. Leyendecker ("the Leyendeckers"), Patricia Ann Koppers ("Koppers"), John & Marjorie Jaegar ("the Jaegars"), Bernice Bloom ("Bloom"), Mark & Marianne Cotter ("the Cotters") in case number 93-03059, and John R., Sylvia K., and Renetta Rimicci ("the Rimiccis") in case number 93-04014 were represented at the hearing by Steven Samson, Esq. of Evanston, Illinois.

Respondent Kenneth Puckett ("Puckett") was represented at the hearing by Michael J. Falconer, Esq. of Chicago, Illinois.

Respondent Multi-Financial Securities Corporation ("Multi-Financial") was not present at the hearing. (See Other Issues).

#### **CASE INFORMATION**

93-03059

A joint Statement of Claim was filed with the NASD by Claimants Sievert, the Ventrellas, the Leyendeckers, Koppers, the Jaegers, Bloom, and the Cotters on August 4, 1993. Uniform Submission Agreements were signed by the aforementioned Claimants on June 18, 1993.

Respondent Multi-Financial filed a Motion to Dismiss pursuant to §6 of the NASD Code of

Arbitration Procedure ("the Code"), and a Motion for More Definite Statement on or about November 11, 1993. The Uniform Submission Agreement was signed by Wendell Gadd, Secretary/Treasurer, on behalf of Multi-Financial on November 11, 1993.

Claimants Sievert, the Ventrellas, the Leyendeckers, Koppers, the Jaegers, Bloom, and the Cotters filed a Response to Respondent Multi-Financial's Motion to Dismiss on or about November 19, 1993.

A Statement of Answer was filed by Respondent Multi-Financial on April 12, 1994. An Amended Statement of Answer was filed on September 20, 1994.

The Respondent Puckett did not execute a Uniform Submission Agreement. (See Other Issues).

93-04014

A joint Statement of Claim was filed with the NASD by Claimants John R., Sylvia K., and Renetta Rimicci on October 1, 1993. The Uniform Submission Agreement was signed by the aforementioned Claimants on September 3, 1993.

The Statement of Answer was filed by Respondent Multi-Financial on November 11, 1993.

The Respondent Puckett did not execute a Uniform Submission Agreement. (See Other Issues).

### **HEARING INFORMATION**

The hearing was held on October 3, 1994 in Chicago, Illinois for a total of one (1) hearing session.

### **CASE SUMMARY**

Claimants Mary Lou Sievert, Vito & Helen Ventrella, Leon & Beatrice F. Leyendecker, Patricia Ann Koppers, John & Marjorie Jaegar, Bernice Bloom, Mark & Marianne Cotter, and John R., Sylvia K., & Renetta Rimicci ("Claimants") in their respective Statements of Claim, stated that Respondent Kenneth Puckett was a registered sales representative, branch office manager, employee, and authorized agent of Respondent Multi-Financial. Claimants alleged that during the years 1991, 1992 and 1993 Respondents by fraud, misrepresentation, concealment, and undue advantage converted Claimants' money for their own personal use without the knowledge or consent of Claimants. Claimants further alleged that Respondents' actions constituted manipulative and deceptive devices or contrivances in violation of §10(b) and §15(o) of the Securities and Exchange Act of 1934 ("the Exchange Act") and Rule 10(b)-5 thereunder, §12 of the Securities Act of 1933 ("the Securities Act"), the Illinois Securities Act, and Article III §1 and 18 of the NASD Rules of Fair Practice. Claimants additionally alleged that Respondent Multi-Financial knew or should have known of Respondent Puckett's activities, failed to

maintain and enforce a proper system of internal supervision, and is therefore liable for the acts of Respondent Puckett under §20 of the Exchange Act, §15 of the Securities Act, and §8E of the Illinois Securities Act. Claimants assert that the tortious conduct of Respondent Puckett was egregious and oppressive and characterized by malice or wantonness justifying the imposition of punitive damages. Claimants also alleged breach of fiduciary duty by Respondents.

Respondent Multi-Financial in its respective Amended Answers alleged that Respondent Puckett acted outside the scope of his employment with Multi-Financial, and that he acted outside the scope of his authority, and without express or apparent authority. Multi-Financial denied that it had any knowledge of the acts committed by Respondent Puckett outside of his scope of authority, and asserts that it owes no duty to supervise acts taken by Puckett outside of his relationship with the broker-dealer and beyond the scope of this authority. Respondent Multi-Financial asserted that there is no private right of action for violations of either the NASD Rules of Fair Practice, or §8E of the Illinois Securities Act. Additionally, Multi-Financial and it denies having violated these rules. Respondent Multi-Financial set forth the following affirmative defenses in its Answer: Claimants failed to state a claim upon which relief may be granted for alleged violations of the NASD Rules of Fair Practice; certain claims are barred by the applicable statute of limitations; assumption of risk by Claimants, Claimants failed to exercise reasonable care, and Claimants' negligence caused or contributed to cause their losses. Respondent also asserted that certain claims are not eligible for submission to arbitration pursuant to §15 of the Code of Arbitration Procedures ("the Code").

Respondent Puckett did not file an answer to these allegations.

#### **RELIEF REQUESTED**

Claimants requested compensatory damages and losses, as set forth in Exhibit A of their respective Statements of Claim; any additional punitive and consequential damages in an amount to be established at hearing, including damages pursuant to the Illinois Revised Statutes Chapter 38 §16-1.3(g) concerning the financial exploitation of an elderly or disabled person; interest at the legal rate, forum fees, attorney's fees and costs; and other proper and just relief.

Respondent Multi-Financial demanded judgement on Claimants' claims and requested and award of its costs.

Respondent Puckett did not answer the Statement of Claim, and did not state a relief.

#### **OTHER ISSUES CONSIDERED AND DECIDED**

Respondent Puckett did not file with the NASD a properly executed submission to arbitration but is required to submit to arbitration pursuant to §12 of the NASD Code of Arbitration Procedure (the "Code"), and is bound by the determination of the arbitration panel on all issues submitted.

Claimants entered into a settlement agreement with Respondent Multi-Financial prior to the hearing, whereby all claims are dismissed as to Respondent Multi-Financial.

The parties have agreed that the Award in this matter may be executed by counterpart copies. The parties have also agreed to receive conformed copies of the Award while the original(s) 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:

#### **Mary Lou Sievert**

1. Respondent, Kenneth Puckett, shall be and hereby is liable for, and shall pay to the Claimant, Mary Lou Sievert, compensatory damages in the sum of One Hundred Twenty Six Thousand, Four Hundred Sixty Four Dollars (\$126,464.00);
2. Respondent, Kenneth Puckett, shall be and hereby is liable for, and shall pay to the Claimant, Mary Lou Sievert, attorney's fees in the sum of Sixty Three Thousand, Two Hundred Thirty Two Dollars (\$63,232.00);
3. Respondent, Kenneth Puckett, shall be and hereby is liable for, and shall pay to the Claimant, Mary Lou Sievert, punitive damages in the sum of One Hundred Eighty Nine Thousand, Six Hundred Ninety Six Dollars (\$189,696.00);

#### **Vito and Helen Ventrella**

4. Respondent, Kenneth Puckett, shall be and hereby is liable for, and shall pay to the Claimants, Vito & Helen Ventrella, compensatory damages in the sum of Ninety Two Thousand, Two Hundred Fifty Five Dollars (\$92,255.00);
5. Respondent, Kenneth Puckett, shall be and hereby is liable for, and shall pay to the Claimants, Vito and Helen Ventrella, attorney's fees in the sum of Forty Six Thousand, One Hundred Twenty Seven Dollars (\$46,127.00);
6. Respondent, Kenneth Puckett, shall be and hereby is liable for, and shall pay to the Claimants, Vito and Helen Ventrella, punitive damages in the sum of One Hundred Thirty Eight Thousand, Three Hundred Eighty Two Dollars (\$138,382.00);

#### **Leon and Beatrice Leyendecker**

7. Respondent, Kenneth Puckett, shall be and hereby is liable for, and shall pay to the Claimants, Leon & Beatrice F. Leyendecker, compensatory damages in the sum of Thirty Eight Thousand, Three Hundred Thirty Eight Dollars (\$38,338.00);

8. Respondent, Kenneth Puckett, shall be and hereby is liable for, and shall pay to the Claimants, Leon and Beatrice F. Leyendecker, attorney's fees in the sum of Nineteen Thousand, One Hundred Sixty Nine Dollars (\$19,169.00);

9. Respondent, Kenneth Puckett, shall be and hereby is liable for, and shall pay to the Claimants, Leon and Beatrice F. Leyendecker, punitive damages in the sum of Fifty Seven Thousand, Five Hundred Seven Dollars (\$57,507.00);

**Patricia Ann Koppers**

10. Respondent, Kenneth Puckett, shall be and hereby is liable for, and shall pay to the Claimant, Patricia Ann Koppers, compensatory damages in the sum of Eighty Thousand, Two Hundred Eighty Five Dollars (\$80,285.00);

11. Respondent, Kenneth Puckett, shall be and hereby is liable for, and shall pay to the Claimant, Patricia Ann Koppers, attorney's fees in the sum of Forty Thousand, One Hundred Forty Three Dollars (\$40,143.00);

12. Respondent, Kenneth Puckett, shall be and hereby is liable for, and shall pay to the Claimant, Patricia Ann Koppers, punitive damages in the sum of One Hundred Twenty Thousand, Four Hundred Twenty Eight Dollars (\$120,428.00);

**John and Marjorie Jaeger**

13. Respondent, Kenneth Puckett, shall be and hereby is liable for, and shall pay to the Claimants, John and Marjorie Jaeger, compensatory damages in the sum of Fifty Thousand, Nine Hundred Twenty Dollars (\$50,920.00);

14. Respondent, Kenneth Puckett, shall be and hereby is liable for, and shall pay to the Claimants, John and Marjorie Jaeger, attorney's fees in the sum of Twenty Five Thousand, Four Hundred Sixty Dollars (\$25,460.00);

15. Respondent, Kenneth Puckett, shall be and hereby is liable for, and shall pay to the Claimants, John and Marjorie Jaeger, punitive damages in the sum of Seventy Six Thousand, Three Hundred Eighty Dollars (\$76,380.00);

**Bernice Bloom**

16. Respondent, Kenneth Puckett, shall be and hereby is liable for, and shall pay to the Claimant, Bernice Bloom, compensatory damages in the sum of Two Hundred Thirty Five Thousand, Three Hundred Twenty Nine Dollars (\$235,329.00);

17. Respondent, Kenneth Puckett, shall be and hereby is liable for, and shall pay to the Claimant, Bernice Bloom, attorney's fees in the sum of One Hundred Seventeen Thousand, Six Hundred Sixty Five Dollars (\$117,665.00);

18. Respondent, Kenneth Puckett, shall be and hereby is liable for, and shall pay to the Claimant, Bernice Bloom, punitive damages in the sum of Three Hundred Fifty Two Thousand, Nine Hundred Ninety Four Dollars (\$352,994.00);

**Mark and Marianne Cotter**

19. Respondent, Kenneth Puckett, shall be and hereby is liable for, and shall pay to the Claimants, Mark and Marianne Cotter, compensatory damages in the sum of Fourteen Thousand, Nine Hundred Thirty Four Dollars (\$14,934.00);

20. Respondent, Kenneth Puckett, shall be and hereby is liable for, and shall pay to the Claimants, Mark and Marianne Cotter, attorney's fees in the sum of Seven Thousand, Four Hundred Sixty Seven Dollars (\$7467.00);

21. Respondent, Kenneth Puckett, shall be and hereby is liable for, and shall pay to the Claimants, Mark and Marianne Cotter, punitive damages in the sum of Twenty Two Thousand, Four Hundred One Dollars (\$22,401.00);

**Renatta and Sylvia Rimicci**

22. Respondent, Kenneth Puckett, shall be and hereby is liable for, and shall pay to the Claimants, Renetta and Sylvia Rimicci, compensatory damages in the sum of Eight Thousand, Five Hundred Ninety Dollars (\$8,590.00);

23. Respondent, Kenneth Puckett, shall be and hereby is liable for, and shall pay to the Claimants, Renetta and Sylvia Rimicci, attorney's fees in the sum of Four Thousand, Two Hundred Ninety Five Dollars (\$4295.00);

24. Respondent, Kenneth Puckett, shall be and hereby is liable for, and shall pay to the Claimants, Renetta and Sylvia Rimicci, punitive damages in the sum of Twelve Thousand, Eighty Hundred Eighty Five Dollars (\$12,885.00);

**John and Sylvia Rimicci**

25. Respondent, Kenneth Puckett, shall be and hereby is liable for, and shall pay to the Claimants, John and Sylvia Rimicci, compensatory damages in the sum of Seven Thousand, Five Hundred Seventeen Dollars (\$7517.00);

26. Respondent, Kenneth Puckett, shall be and hereby is liable for, and shall pay to the Claimants, John and Sylvia Rimicci, attorney's fees in the sum of Three Thousand, Seven Hundred Fifty Nine Dollars (\$3759.00);

27. Respondent, Kenneth Puckett, shall be and hereby is liable for, and shall pay to the Claimants, John and Sylvia Rimicci, punitive damages in the sum of Eleven Thousand, Two Hundred Seventy Six Dollars (\$11,276.00);

28. Any relief not specifically provided for herein is denied.

\*\* The panel awarded attorney's fees and punitive damages under the authority of the Federal and Illinois securities laws.

**FORUM FEES**

Pursuant to §43(c) of the NASD Code of Arbitration Procedure, the following forum fees are assessed:

1 hearing session x \$400 = \$400 minus hearing session deposit of \$400 = net 0 due.

Pursuant to §43(c) of the Code, the NASD shall retain the non-refundable filing fee in the amount of \$100, the hearing session deposit in the amount of \$400.

**By The Arbitration Panel:**

Dated:

12/9/94

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12/16/94

12/8/94

s/s John F. Detmer  
John F. Detmer  
Industry Arbitrator

Date Award Served By The NASD: 12/21/94

28. Any relief not specifically provided for herein is denied.

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