

N.A.S.D. AWARD
NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Dino Vlachos

93-04578

Name of Respondent(s)

Bradford (J. C.) & Co.
Gregory Scott Pope
Richard Miller

REPRESENTATION

For Claimant: J. Pat Sadler, Esq. of Sadler & Associates, Atlanta, GA.

For Respondents: Claude O. Ramer II, Esq., Assistant General Counsel, J.C. Bradford & Co., Nashville, TN.

CASE INFORMATION

Statement of Claim filed: November 2, 1993.

Claimant's Submission Agreement signed on: October 29, 1993.

Joint Statement of Answer filed by Respondents, J.C. Bradford & Co., Richard Miller and Greg Pope on: January 27, 1994.

Respondent, J.C. Bradford & Co.'s Submission Agreement signed on: January 25, 1994.

Respondent, Richard Miller's Submission Agreement signed on: January 26, 1994.

Respondent, Greg Pope's Submission Agreement signed on : January 26, 1994.

HEARING INFORMATION

Hearing Date/Sessions: August 23, 1994 / Two Sessions

Hearing Location: National Association of Securities Dealers offices located in Atlanta, GA.

CASE SUMMARY

Claimant's Statement of Claim contained allegations of unsuitability, churning, misrepresentation and omission, breach of fiduciary duty, common law fraud, and negligence. Claimant alleged that Respondent, Richard Miller, represented to Claimant that he had an expertise in the stock market and induced Claimant to transfer his account to Respondent, J.C. Bradford & Co. Claimant alleged that throughout the period in dispute Claimant made investments based on Miller's recommendations due to the fact that Claimant had limited investment experience and did not have time on a daily basis to devote to his investments.

Claimant further alleged that the volume of trades in Claimant's account was excessive and the trades were often made to generate commissions. Claimant alleged that the excessive commission charges of more than \$14,200 made it difficult for Claimant to make a profit. Claimant further alleged the activity in his account consisted of over 160 buy and sell positions of which only ten of the 83 opening positions were unsolicited. However, Claimant alleged that his confirmations were continuously mis-marked to indicate that the trades were unsolicited. Claimant alleged that Respondent, Miller, breached Claimant's reliance on Miller's self-professed expertise by using their relationship to engage in the voluminous trading.

Further, Claimant alleged that Miller misrepresented and/or failed to disclose the risks of particular investments. Claimant alleged that Miller knew or should have known that Claimant would rely on Respondent's misrepresentations and omissions and that Claimant did not possess the financial ability to bear the potential risks.

Claimant further alleged that Respondents failed to adequately manage Claimant's account and Respondent, J.C. Bradford & Co., failed to adequately supervise its account executives. In particular, Claimant alleged that Respondent, Miller, recommended that Claimant purchase 200 shares of Video Lottery Corp. without informing Claimant of a pending legal matter which detrimentally affected the value of the shares. Claimant alleged that on at least four occasions Respondent, J.C. Bradford employees signed off on documents that contained inconsistent information about Claimant's investment objectives. Further,

Claimant alleged that when Respondent, Greg Pope, took over Claimant's account he did not follow through on his own investment strategy. Claimant alleged that Respondents ignored their fiduciary responsibilities and did not serve the best interests of Claimant.

Respondents maintained that Claimant was a knowledgeable and experienced investor who did not principally rely on any of Respondent, J.C. Bradford's representatives for investment advice or management. Further, Respondents maintained that Respondent, Richard Miller, never held himself out to be skilled in trading and investing, and that Claimant did not transfer his account to J.C. Bradford & Co. based on such a representation. Respondents further maintained that Respondent, Miller, did not make recommendations based upon the potential commissions but, rather, he made recommendations based upon specific inquiries from Claimant. Respondents further maintained that Claimant understood the potential risks of all transactions and that with respect to the Video Lottery Corp. trade, Respondent, Miller, was not aware of the pending legal matter.

Respondents put forth several affirmative defenses. Respondents maintained that Claimant controlled the trading in his account and the volume of trading was not excessive given Claimant's investment objectives. Respondents further maintained Claimant's account was "non-discretionary" and, therefore, Respondents did not owe Claimant fiduciary duties. Respondents further maintained that Claimant approved and ratified every trade in his account. Lastly, Respondents maintained that Claimant's claim for punitive damages should be dismissed because Respondents' conduct did not justify punitive damages and punitive damages are not recoverable under New York law.

RELIEF REQUESTED

Claimant requested: damages from Respondents, J.C. Bradford & Co., Richard Miller, and Greg Pope, totalling \$91,050. Claimant sought \$23,000 in compensatory damages, \$14,200 in commissions to be returned, \$46,000 in punitive damages, interest for 18 months at 12% annually compounded of \$6,200, and \$1,650 in approximate costs.

Respondents requested: all of Claimant's claims be dismissed and all costs and expenses associated with this action, including reasonable attorney's fees, be assessed against Claimant.

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:

In a unanimous decision, the arbitrators decided in favor of Claimant, Dino Vlachos, in the sum of \$1,500 inclusive of interest against Respondent, J.C. Bradford & Co., for lack of supervision. All other claims by Claimant including claims against Respondents, Miller and Pope, are denied in all respects. The Respondent, J.C. Bradford & Co. shall reimburse to the Claimant the sum of \$650.00 representing the fees previously paid by the Claimant to the NASD. Each party shall bear its other respective costs including attorneys' fees.

FORUM FEES

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

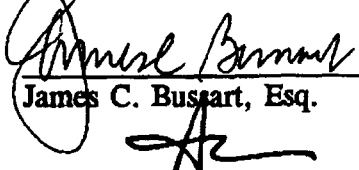
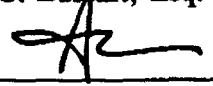
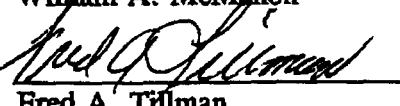
2 sessions X \$500 = \$1,000 minus Claimant's hearing session deposit of \$500
= net \$500 due.

Forum fees Assessed Against:

Respondent, J.C. Bradford & Co., is assessed the sum of \$500 which represents balance of the forum fees due.

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

Concurring Arbitrators' Signatures

Name	Public/Industry
 James C. Busgart, Esq.	<u>Public</u>
 William A. McMahon	<u>Industry</u>
 Fred A. Tillman	<u>Public</u>

Date of Decision: September 29, 1994