

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Names of Claimants

Gary & Bonnie Scholfield

94-00060

Names of Respondents

Norcross Securities
Steven M. Nelson

REPRESENTATION

Claimants Gary and Bonnie Scholfield ("Claimants") were represented at the hearing by Bruce E. Baldinger, Esq. Somerville, New Jersey.

Respondents Norcross Securities, Inc. ("Norcross") and Steven M. Nelson ("Nelson") were represented at the hearing by Paul J. Roshka, Esq. of O'Connor, Cavanaugh, Anderson, Westover, Killingsworth & Beshears, P.A., Phoenix, Arizona.

CASE INFORMATION

Statement of Claim filed on January 6, 1994. Claimants' Submission Agreement signed on December 14, 1993.

Joint Statement of Answer filed by Respondents Norcross and Nelson on March 9, 1994. Respondents' Submission Agreements were signed on March 9, 1994.

HEARING INFORMATION

The hearing was conducted on September 21, 1994 for 2 sessions and on September 22, 1994 for two session in Minneapolis, Minnesota for a total of 4 sessions.

CASE SUMMARY

Claimants alleged that they bought 36,735 shares of Work Recovery Inc. through Work Recovery and Respondent Norcross, and that Respondent Nelson, as their fiduciary broker,

misrepresented his opinion of the securities and strongly encouraged Claimants to sell the securities well before he believed the value of the shares would decline. According to Claimants, Nelson also misrepresented the health of Work Recovery Inc., and pressured Claimants into selling the securities before Claimants' original target level for selling: a return of 300% or a price of 4 1/2 dollars per share. Claimants alleged Nelson and Norcross committed the following: breach of fiduciary duty; fraud; misrepresentation; negligence; inadequate supervision; breach of contract; and violation of the federal securities laws and the Wisconsin securities laws.

Respondents Norcross and Nelson in their Joint Answer, denied any wrongdoing with regard to Claimants' securities interest. Respondents asserted they were honest and forthright in their advice and that they complied completely with Claimants' investment needs and goals when making recommendations. Respondents also offered the following affirmative defenses: failure to state a claim upon which relief can be granted; estoppel; assumption of risk; and contributory negligence.

RELIEF REQUESTED

Claimants requested compensatory damages in the sum of \$76,844.00; interest; attorney's fees; other incidental costs; punitive damages per Wisconsin state law; and other such relief as the panel of arbitrators shall deem proper.

Respondents requested that Claimants' request for damages and other costs be denied in its entirety. In addition, Respondents request that Claimants should be held liable to Respondents for attorney's fees and costs, and should be assessed all hearing session fees.

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. The Statement of Claim filed against the Respondents Norcross Securities and Steven Nelson is denied in its entirety;
2. The request for punitive damages is denied;
3. Each of the parties shall bear their own costs and expenses, including attorney's fees, other than those specifically enumerated for herein.

FORUM FEES

Pursuant to Section 43 of the NASD Code of Arbitration Procedure, the NASD shall retain the non-refundable filing fee of \$150.00, and hearing session deposit of \$500.00, previously deposited with the NASD by the Claimant.

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

4 sessions X \$500 = \$2,000 minus hearing session deposit of \$500 = net \$1500 due. Forum fees are assessed against the Claimants in the sum of \$1500. Fees are payable to the National Association of Securities Dealers, Inc.

By The Arbitration Panel

Name

Date

s/s Casandra Mihalchick
Casandra Mihalchick, Esq.
Presiding, Public Arbitrator

12/7/94

s/s Kevin Hoffman
Kevin D. Hoffman, Esq.
Public Arbitrator

12/9/94

s/s Kathryn Hoy
Kathryn Hoy
Industry Arbitrator

12/9/94

Date of Decision: 12/16/94.