

N.A.S.D. AWARD

PUBLIC

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Charles D. Miller

94-00569

Name of Respondent(s)

The Robinson-Humphrey Co. Inc.

REPRESENTATION

For Claimant Charles D. Miller: Glenn A. Delk, Esq. of the law firm of Lightmas and Delk, Atlanta, GA.

For Respondent The Robinson-Humphrey Company, Inc.: Douglas C. Wurth, Esq., in-house counsel at Smith Barney/Shearson, New York, NY.

CASE INFORMATION

Statement of Claim filed: March 29, 1994.

Claimant's Submission Agreement signed on: March 24, 1994.

Statement of Answer of Respondent The Robinson-Humphrey Company, Inc. dated: May 25, 1994.

The Respondent The Robinson-Humphrey Company, Inc. did not execute a submission agreement as required pursuant to Section 25 of the Code of Arbitration Procedure.

HEARING INFORMATION

Hearing Date/Session: December 7, 1994 / Two Sessions

Hearing Location: NASD offices located in Atlanta, GA.

CASE SUMMARY

Claimant alleged that he was a client of C. Noel Wadsworth ("Mr. Wadsworth") who was employed by the Respondent as a stockbroker and alleged that as an employee of the Respondent, Mr. Wadsworth relied on the Respondent to provide his client with accurate and timely research on investments, as well as suitable investment products.

Claimant alleged that in the Spring of 1988 the Respondent marketed through its brokers, a "bond of the week" and made a number of representations concerning the safeguards of the program. Claimant alleged that the Respondent represented that they would maintain a secondary market in all "bond of the week" buy recommendations and would perform continual research monitoring in order to suggest a revised trading strategy to investors if the need arose.

Claimant alleged that as a result of these representations Mr. Wadsworth and a number of his clients including the Claimant, invested approximately \$76,000.00 in high yield bonds issued by Rapid American Company.

Claimant alleged that these representations were false and misleading causing the Claimant and numerous other investors to sustain substantial losses. Specifically, the Claimants alleged that contrary to the representations made, the Respondent failed to maintain a secondary market, failed to perform research and failed to advise investors that a revised strategy was needed.

Claimant alleged that the Respondent's knowing and reckless misrepresentations violated Sections 10(b) and 10 (b)(5) of the 1934 Securities Exchange Act and Respondent committed common law fraud under the laws of the State of Georgia and breached the fiduciary duty it owed to the Claimant.

Respondent maintained the Claimant was a very sophisticated investor who was fully aware of the nature and risks associated with his investment in Rapid American Bonds.

Respondent maintained that Claimant was a wealthy businessman who had a net worth of approximately \$1,000,000.00, had a history of sophisticated option trading, and had described his investment objectives to be "appreciation/risk" and "speculative". Respondent further maintained that Claimant knew the investment was a "speculative recommendation" targeted to "aggressive investors looking for high current income with great appreciation potential" and that his investment in Rapid American bonds could result in a loss even if the Respondent fulfilled all of the representations it made in connection with the "bond of the week"

program.

Respondents maintained that if Claimant did sustain losses through his investment in Rapid American bonds such losses are not attributable to any alleged misrepresentations made to him in connection with the "bond of the week" program.

RELIEF REQUESTED

Claimant requested actual damages and lost income in the amount of \$17,110.00 plus prejudgment interest, punitive damages and all costs and expenses incurred in bringing this action.

Respondent requested that the Statement of Claim be dismissed in its entirety and costs 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:

1. All claims by the Claimant against the Respondent are dismissed in all respects.
2. The Claimant's request for punitive damages is denied.
3. Each party shall bear their respective costs including attorneys' fees.

FORUM FEES

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

2 sessions x \$400.00 = \$800.00 less Claimant's hearing
session deposit (\$400.00) = net \$400.00 due.

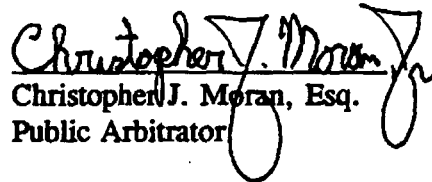
The Respondent is liable and shall pay to the NASD the sum of \$400.00 representing the balance of the forum fees.

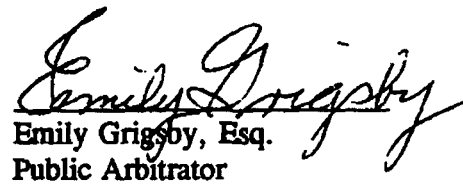
Fees are payable to the National Association of Securities Dealers, Inc.

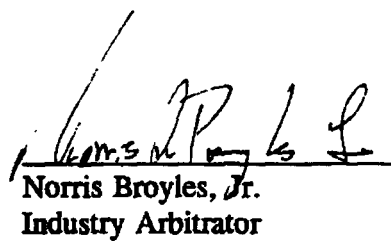
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ARBITRATORS' SIGNATURES


Christopher J. Moran, Esq.
Public Arbitrator


Emily Grigsby, Esq.
Public Arbitrator


Norris Broyles, Jr.
Industry Arbitrator

Date of Decision: January 11, 1995