

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Gene J. Quirini

94-00669

Name of Respondents

Greenway Capital Corporation
Gerald McNeil

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on February 23, 1994, Claimant Gene Quirini, who appeared Pro Se, alleged that Respondent Gerald McNeil, through his firm Greenway Capital Corp. used "hard sell" phone calls in order to convince him to purchase an IPO called RECLAIM which he later sold at a loss. The Claimant further alleged that Respondents also bought and sold Micronics and Porter McLead at losses and Vertex Industries, which he still holds but has lost most of its value. Claimant Gene Quirini contended that he is entitled to recover damages he has suffered due the wrongdoing of the Respondent.

Respondent, Greenway Capital Corp., through its in-house representative, Jeanne Hernandez, maintained that the Claimant does not assert any basis for a claim upon which relief can be granted other than that the authorized purchases and sales he chose to effect for his account were unsuitable. The Respondent also maintained that the Claimant's investment objective was speculation, and also that Claimant was aware of the risks in the stock market, and therefore the claims against it should be dismissed.

In a Reply to Greenway Capital Corps answer the Claimant refuted the defenses of the Respondent and reiterated his request for damages.

Respondent Gerald McNeil, through his counsel, Lawrence R. Gelber, Esq. of Beigel, Schy et. al., New York, NY, maintained that the claim alleges no actionable wrongdoing on the part of this Respondent, and that Claimant was sophisticated and wanted the account at issue for speculation. The Respondent also maintained that he advised to sell Vertex when it rose to \$27 per share, but Claimant held onto the stock, and therefore, since the Claimant failed to mitigate

his damages and failed to Statement of Claim upon which relief can be granted, the claims should be dismissed.

RELIEF REQUESTED

Claimant Gene J. Quirini requested \$9,960.00 in actual damages, plus the sale of his Vertex stock.

Respondent Greenway Capital Corp. requested that the claims of the claimant be dismissed.

Respondent Gerald McNeil requested that the claims of the claimant be dismissed, and that he be awarded costs in the amount of \$5,000.00.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single public arbitrator, Richard L. Merrick, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on February 15, 1994 and by the Respondent Greenway on May 19, 1994 and by Respondent Gerald McNeil on May 6, 1995.

And, the Arbitrator, having considered the proof of the parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. The claims of the Claimant Gene Quirini against Respondents Greenway Capital Corp. and Gerald McNeil are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD.

AFFIRMATION

I, **RICHARD L. MERRICK**, do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.

A handwritten signature in cursive script, appearing to read "Richard L. Merrick", is written above a horizontal line.

Richard L. Merrick, Esq.

Date of Decision: May 18, 1995