

N A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Robert B. and Jean C. Stewart

94-00718

Name of Respondents

J.J.B. Hilliard, W.L. Lyons Inc.
Stephen L. Grossman

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on February 25, 1994 Claimants Robert B. and Jean C. Stewart ("Claimants"), who appeared Pro Se, alleged that Respondents J.J.B. Hilliard, W.L. Lyons Inc. and Stephen L. Grossman, through the account executive, Michael Mitchell, mismanaged their account. Claimants further alleged that they were misled by urgent recommendations, which they followed to their detriment. Claimants contended that Mitchell predicted that interest rates would rise and that they would lose their gains in their investments. Claimants further contended that Mitchell made misrepresentations which caused them to sell their securities. Claimants alleged that Mitchell had them open a margin account, which permitted him to buy and sell without delay in order to generate commissions for himself. Claimants further alleged that Respondent Grossman was negligent in failing to supervise and monitor Mitchell's activities, and that due to the wrongdoing of the Respondents, they have suffered damages for which the Respondents should be held liable.

Respondent J.J.B. Hilliard, W.L. Lyons Inc. and Stephen L. Grossman, through their representative and counsel Ann Wilson, Esq., Louisville, Kentucky, maintained that all recommendations made by Respondents were appropriate based on Claimants' investment objectives and financial circumstances. Respondents further maintained that the account executive, Michael Mitchell, prudently recommended the use of a margin account in anticipation of the shortened time to pay for trades. Respondents contended that the full liquidation of the Claimants' bond fund was not in error as evidenced by a letter that authorized full liquidation. Respondents further contended that Respondent Grossman fulfilled his responsibilities as Branch Manager and had no reason to believe the account representative's work was in any way suspect. Respondents maintained that Mitchell reviewed each and every transaction in detail with the Claimants prior to execution, and that Claimant's instructions were correctly followed. Respondent contended that it committed no wrongdoing, and therefore should not be held liable in this matter.

RELIEF REQUESTED

Claimants Robert B. and Jean C. Stewart. requested \$3,058.00 in actual damages, plus \$700.00 in punitive damages.

Respondents J.J.B. Hilliard, W.L. Lyons Inc. and Stephen L. Grossman. requested that the claims of the Claimants be dismissed.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Robert P. Ross, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on February 19, 1994 and by the Respondents J.J.B. Hilliard, W.L. Lyons Inc. on June 16, 1994 and Stephen L. Grossman on May 25, 1994.

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. Respondents J.J.B. Hilliard, W.L. Lyons Inc. and Stephen L. Grossman are jointly and severally liable and shall pay to the Claimants Robert B. And Jean C. Stewart \$3,000.00 in actual damages.
2. The Claimant's request for punitive damages is denied.
3. The parties shall bear their respective costs.
4. The \$125.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc. Respondents J.J.B. Hilliard, W.L. Lyons Inc. and Stephen L. Grossman are jointly and severally liable and shall pay to the Claimants Robert B. and Jean C. Stewart \$125.00 as reimbursement of the filing fee.

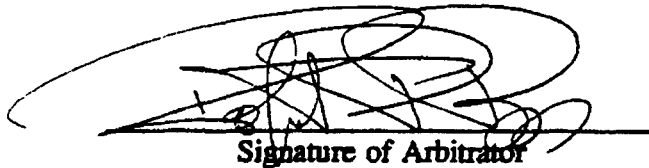
AFFIRMATION

STATE OF Kentucky

} ss:
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COUNTY OF Jefferson

I, Robert P. Ross, 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.


Signature of Arbitrator

DATE OF DECISION:

March 20, 1996