

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Jack and Anne Stratton

94-01622

Name of Respondents

Robert Thomas Securities, Inc.
Charles Moore
Sharon Moore
Charles Boyd

REPRESENTATION

For Claimants Jack and Anne Stratton ("Claimants"): Grant S. Palmer, Esq. of the law firm of Blank, Rome, Comiskey & McCauley, Philadelphia, PA

For Respondents Robert Thomas Securities, Inc.. ("Robert Thomas"), Charles Moore ("Mr. Moore") and Sharon Moore ("Ms. Moore"): Michael R. Alford, Esq. of Raymond James & Associates, Inc. St. Petersburg, FL

For Respondent Charles Boyd ("Boyd"): Boyd did not appear and was not represented.

CASE INFORMATION

Statement of Claim filed: May 2, 1994

Claimants' Submission Agreement signed on: April 22, 1994

Joint Statement of Answer filed by Respondents Robert Thomas and Mr. Moore on July 19, 1994.

Robert Thomas' Submission Agreement signed on: June 8, 1994

Mr. Moore's Submission Agreement signed on June 13, 1994

Ms. Moore did not execute a Submission Agreement.

On September 29, 1994, Ms. Moore adopted the answer and affirmative defenses previously filed by Robert Thomas and Mr. Moore.

Boyd neither executed a Submission Agreement nor did he file an answer.

HEARING INFORMATION

Hearing Dates/Sessions: May 15, 1995 - two sessions
June 1, 1995 - two sessions

Hearing Location: Holiday Inn City Center and American Arbitration Association, Philadelphia, PA

CASE SUMMARY

Claimants alleged that Boyd convinced the Claimants by making material misrepresentations to invest in a business venture ("Venture"). On August 9, 1993, the Claimants invested \$25,000 in the Venture. The Claimants alleged that they never received written documentation evidencing their investment in the Venture. Claimants alleged that on August 10, 1993, without authorization, Boyd paid \$5,000 of the Claimants' money to Anchor Investments, an affiliate of Robert Thomas controlled by the Moores. Claimants alleged that in late August 1993, Boyd asked the Claimants to contribute another \$25,000 which they declined. Claimants alleged that on or about September 8, 1993, Mr. Moore contacted Claimants thanking them for withdrawing another \$25,000 from their margin account. Claimants alleged that they immediately contacted Boyd because they had not authorized this transaction. Claimants alleged that Boyd admitted to taking \$25,000 without authority, however, Boyd promised Claimants not to worry and that he would return all of Claimants' monies in a few days. Claimants alleged that Boyd failed to return the money. Claimants alleged that Boyd forged Claimants' signature on a \$25,000 check. Since these events, Boyd is no longer employed with Robert Thomas and is no longer registered as a securities broker in Pennsylvania. Claimants alleged that Respondents Mr. and Ms. Moore were aware that Boyd was having personal and financial problems and that he was conducting business in a manner unacceptable for a registered representative. Claimants seek recovery based on Boyd's failure to disclose significant information about the Venture and based on numerous misrepresentations made by Boyd regarding the nature of the investment and the number of investors. Claimants seek recovery based on the forgery and unauthorized withdrawal of monies from their margin account.

Respondents Robert Thomas, Mr. Moore and Ms. Moore (collectively referred to as the "Robert Thomas Respondents") categorically denied all allegations of wrongdoing alleged by Claimants. Robert Thomas Respondents maintained that the investment that the Claimants complain of was an investment that Claimants made wholly apart from their Robert Thomas account. The Robert Thomas Respondents maintained that they have no responsibility to Claimants for any losses they may have sustained. Robert Thomas Respondents maintained that Claimants participated in the Venture

with Boyd. Robert Thomas Respondents maintained that Claimant, Mr. Stratton, was to be active in the Venture and that on August 9, 1993, he requested a check drawn from his Robert Thomas account in the amount of \$25,000 for the Venture. Robert Thomas Respondents maintained that Claimants authorized Boyd's handling of this first check. Robert Thomas Respondents maintained that as to the second check for \$25,000, Claimants now deny authorizing Boyd to withdraw, but earlier actions of Claimants reflect that the withdrawal was authorized. They maintained that they have done no wrong and are being named because of Claimants unlikely chance of recovering from Boyd. Robert Thomas Respondents maintained that Claimants understood that their business venture with Boyd was unrelated to Robert Thomas. Robert Thomas Respondents maintained that Claimants failed to complain about the unauthorized withdrawal of \$25,000 although Claimants had the opportunity in conversations with Ms. Moore to complain. The Robert Thomas Respondents maintained that the following affirmative defenses bar Claimants' recovery: statute of limitations; failure to state a cause of action; assumption of risk; Claimants authorized, ratified and or acquiesced in the alleged acts; estoppel; barred by the doctrine of waiver; contributory negligence; Robert Thomas Respondents acted in good faith and in accordance with industry standards; damages were the result of superseding or intervening causes beyond their control and Claimants failed to mitigate.

RELIEF REQUESTED

Claimants requested repayment of the \$50,000 which they alleged they lost as a result of Respondents' actions, plus attorneys' fees, costs and interest accrued to date.

Robert Thomas Respondents requested that Claimants' claim be dismissed in its entirety, and that the Panel award them their costs and attorneys' fees.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASD.

Prior to the end of the arbitration hearings, Robert Thomas Respondents and Claimants entered into a confidential agreement to dismiss all claims and actions against Robert Thomas Securities, Inc., Charles Moore and Sharon Moore. The Panel does not know the terms of the agreement as the parties chose not to place their

agreement on the record. The only Respondent left in this matter was Charles Boyd and the hearing continued only against Boyd.

Although Boyd did not execute a Submission Agreement; attend the hearing or file an answer, the Panel noted that service of the claim and notice of the hearings were received by Boyd.

The Panel pursuant to its authority under Section 12(a) of the Code of Arbitration Procedure exercised its jurisdiction over Respondent Boyd.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing and post hearing submissions, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. That Respondent Charles Boyd is liable to the Claimants and shall pay to the Claimants the sum of \$50,000; plus interest at a rate of 6% simple interest per annum from September 30, 1993 until the date the award is paid.
2. That Respondent Charles Boyd shall pay to the Claimants' attorneys' fees in the amount of \$13,755.83; no interest is awarded on this amount.
3. That all other claims costs and expenses not provided for herein are denied in their entirety.

FORUM FEES

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

4 sessions X \$400 = \$1,600

Forum fees Assessed Against: The \$400 hearing session deposit originally filed by Claimants shall be retained. The remaining forum fees in the amount of \$1,200 shall be assessed against Respondent Boyd.

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

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By The Arbitration Panel:

Dated:

September 27, 1995

James A. Jennings, Esq.
James A. Jennings, Esq., Chairman
Public Arbitrator

Jerome H. Levy, Esq.
Industry Arbitrator

Harold A. Stein
Public Arbitrator

Date Award Served By the NASD:

September 28, 1995

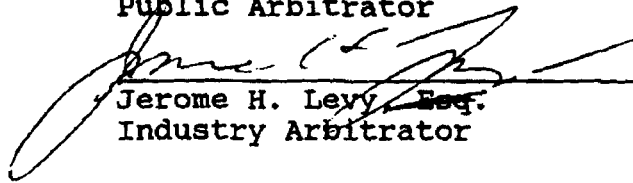
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Case Number 94-01622
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By The Arbitration Panel:

Dated:

9/27/95

James A. Jennings, Esq., Chairman
Public Arbitrator


Jerome H. Levy, Esq.
Industry Arbitrator

Harold A. Stein
Public Arbitrator

Date Award Served By the NASD:

September 28, 1995

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By The Arbitration Panel:

Dated:

James A. Jennings, Esq., Chairman
Public Arbitrator

Jerome H. Levy, Esq.
Industry Arbitrator

9/14/95


Harold A. Stein
Public Arbitrator

Date Award Served By the NASD:

September 28, 1995