

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Jerome F. Perrone, Jr.

94-01916

Name of Respondents

Steve Morgan
Hibbard Brown & Co., Inc.

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on May 5, 1994, Claimant Jerome F. Perrone, Jr., who appeared Pro Se, alleged that Respondent Steve Morgan solicited his business through a "cold sales call" on March 15, 1990 and indicated that Claimant could earn a large return on his savings if he invested with Respondent. Claimant further alleged that between March 20, 1990 and December 9, 1991 he purchased, at the strong recommendation of Respondent, total of 10 different issues at a total cost of \$9,446.25, and as of the filing of this claim he had lost \$6,882.61 or 73% of this investment. Claimant contended that each stock was speculative and had a high level of risk which he was not informed of at the time of the recommendations, and most were very difficult to track because Claimant could not locate published quotes in the Wall Street Journal. Claimant further contended that the account statements provided to him were sporadic and incomplete, and, until July 30, 1993, did not contain the current market value of his portfolio. Claimant alleged that he received a "Suitability Determination Form" from Respondent which provided that it was unlawful for Respondent to recommend and purchase any security on his behalf unless the form has been completed, signed and returned and none of these pre-requisites occurred. Claimant further alleged that in May 1993, two securities, KB Communication and Graystone Companies, Inc., were removed from his account and mailed to him without his prior knowledge or authorization and that on his account statement dated, period ending April 29, 1994, it is indicated for the first time that Statewest Airlines, Inc. has been bankrupt since October 9, 1993. Claimant contended that Respondent misrepresented the level of risk that was inherent in all the issues they recommended, used high pressure sale tactics, failed to obtain a "Suitability Form" from him, omitted information from his statements, and did not adapt his portfolio to changes in his risk tolerance. Claimant further contended that all ten issues that Respondent recommended were purchased over a period of approximately 16 months, from March 27, 1990 onward and the reason he waited to file his Statement of Claim was because he just recently learned that he had a possible recourse. Claimant alleged that his stated investment objective at the onset of investing with Respondent was capital appreciation with a strong emphasis on the preservation of principal.

Respondent Steve Morgan, through his representative, Steven B. Caruso, Esq., of Hibbard Brown & Co., Inc., maintained that there is no evidence of misconduct or impropriety which would warrant consideration of the relief requested. Respondent further maintained that prior to establishing his account with Respondent on March 20, 1990, Claimant provided Respondent with a multitude of personal and financial data including age, occupation, social security number, banking references, approximate annual income and net worth. Respondent contended that each and every investment recommendation was accompanied by a fair and balanced presentation of the investment and consideration associated therewith. Respondent further contended that each and every transaction effectuated on behalf of Claimant was executed with his prior knowledge, consent and permission after having received a fair and balanced presentation of the material investment considerations.

Respondent Hibbard Brown & Co., Inc. filed a petition for Bankruptcy, therefore, all activity as to this party is stayed.

RELIEF REQUESTED

Claimant Jerome F. Perrone, Jr., requested \$6,882.61 in actual damages.

Respondent Steve Morgan, requested that the claims of the Claimant be dismissed in their entirety.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Arbitrator Julian M. Kien, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant Jerome F. Perrone, Jr., on May 18, 1994, and by the Respondent Steve Morgan, on August 22, 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. The claims of the Claimant Jerome F. Perrone, Jr., against the Respondent Steve Morgan 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 Jerome F. Perrone, Jr., shall be retained by the NASD, Inc.

AFFIRMATION

I, **JULIAN M. KIEN**, 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.


JULIAN M. KIEN

DATE OF DECISION: July 2, 1996