

NATIONAL ASSOCIATION OF SECURITIES DEALERS REGULATION, INC.

Name of Claimants

Name of Respondent

REPRESENTATION

CASE INFORMATION

HEARING INFORMATION

Hearing Location: ANA Hotel
Washington, D.C.

CASE SUMMARY

Claimants alleged, among other things, that Respondent engaged in fraudulent selling practices involving misrepresentation and omissions of material fact designed to induce Claimants to authorize unsuitable transactions. Claimants alleged that the securities they were fraudulently induced to purchase included: Digital Products Corporation ("Digital"); Grand Casino Incorporation ("Grand Casino"); Treats International Enterprises Incorporated ("Treats"); and Great American Recreation Inc. ("Great American"). Claimants alleged that they are neither knowledgeable nor sophisticated regarding securities transactions and investment planning. Claimants alleged that prior to 1992, Claimants had invested conservatively and primarily in mutual funds for long term growth. Claimants alleged that Respondent had been informed that their investment goals were long-term growth and safety of principal in order to provide for their retirement. Claimants alleged that Respondent made a "cold call" on them in March 1992 and Claimant Larry McCourry ("Mr. McCourry") agreed to meet Respondent at the Pentagon Cafeteria on March 18, 1992. Claimants alleged that Respondent told Mr. McCourry that F.N. Wolf was a national "Wall Street" brokerage firm which would provide the professional services Claimants were seeking. Claimants alleged that Respondent failed to inform Mr. McCourry that F.N. Wolf had been the subject of many disciplinary proceedings and that the SEC had charged them with fraudulent sales schemes. Claimants alleged that Respondent assured them that his recommendations were sure winners and that all his clients did exceptionally well. Claimants alleged that Respondent failed to request information about Claimants' investment experience or investment objectives. Claimants alleged that they reasonably relied upon Respondent's assertions of his success. Claimants also alleged that Respondent failed to discuss the risks involved in the speculative securities which Respondent persuaded Claimants to purchase, and in fact, Respondent reprimanded Claimants for raising the risk issue. Claimants alleged that Respondent engaged in abusive, obnoxious and intimidating behavior to exert control over Claimants. Claimants alleged that Respondent's activities resulted in common law fraud, breach of contract, and violations of NASD Rules of Fair Practice.

Respondent denied all allegations of wrong doing as asserted by Claimants. Respondent maintained that he worked for F.N. Wolf for more than four years and serviced the accounts of hundreds of clients during that time. Respondent maintained that Claimants had more than sufficient intelligence and investment experience to purchase the stocks recommended. Respondent maintained that Claimants were not unsophisticated investors and had been investing for years. Respondent maintained that Mr. McCourry informed him that Claimants had a net worth, exclusive of residence, of \$500,000.00. Respondent maintained that Mr. McCourry informed him that after investing very conservatively for many years, Claimants now wanted to allocate some investment capital in more aggressive investments. Respondent maintained that Claimants authorized all transactions and that the transactions were consistent with Claimants' stated investment objective for this account. Respondent maintained that Claimants received monthly statements which showed short-term unrealized gains or losses, but Claimants never complained or expressed their concern about security of their principal. Respondent maintained that for each IPO recommendation, Claimants received an initial prospectus at the time of a recommendation and then a final prospectus at the time of the transaction, which contained warnings about possible risk of total loss in owning such stock.

Respondent maintained that there were no material misrepresentations or omissions of material facts. Respondent maintained that he did not have de facto control over Claimants' account and Claimants authorized all transactions. Respondent maintained that he ascertained Claimants' occupation, income, investment experience, investment objectives, net worth, available risk capital, age, and banking activity for the new account form which was completed prior to opening Claimants' account. As to intimidation, Respondent maintained that it is incredible to think that a twenty-five year old stock broker would be

intimidating to a senior, career officer in the United States Armed Forces. Respondent raised the affirmative defenses of ratification and estoppel, as well as a time bar based on applicable statute of limitations.

RELIEF REQUESTED

Claimants requested relief in the amount of \$35,750.00; lost investment opportunity; interest from the date of the activities complained of up to the time of payment of the award; costs and fees, including attorney's fees; and punitive damages in the amount of \$63,250.00.

Respondent requested that the Claimants' claims be dismissed in their entirety.

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.

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. That Respondent is liable to and shall pay to Claimant \$19,280.00.
2. That the claim for punitive damages is denied.
3. That each party shall bear its own costs and expenses, with the exception of the forum fees as discussed below.
4. That any and all relief not specifically addressed herein is denied.

FORUM FEES

Pursuant to Rule 10332(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed:

13 sessions x \$400.00 = \$5,200.00

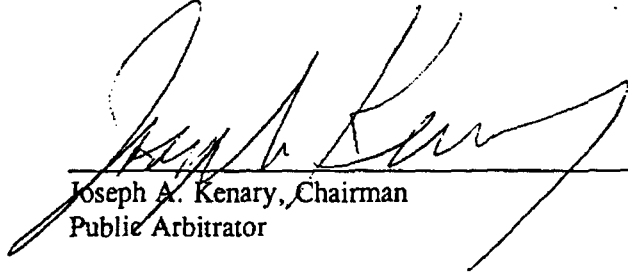
Forum Fees are assessed at \$2,600.00 to Claimants and \$2,600.00 to Respondent. Claimants are to receive credit for the \$400.00 hearing session deposit previously submitted to the NASD Regulation, leaving Claimants a net assessment due of \$2,200.00. Respondent has a net assessment due of \$2,600.00.

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

DATE

5/12/97

CONCURRING ARBITRATORS' SIGNATURES



Joseph A. Kenary, Chairman
Public Arbitrator

Patrick Sean Dolan
Public Arbitrator

Sidney B. Wachtel
Industry Arbitrator


Date Decision Served by NASD Regulation: May 30, 1997

DATE

CONCURRING ARBITRATORS' SIGNATURES

May 16th '97

Joseph A. Kenary, Chairman
Public Arbitrator


Patrick Sean Dolan
Public Arbitrator

Sidney B. Wachtel
Industry Arbitrator

Date Decision Served by NASD Regulation: May 30, 1997

DATE

CONCURRING ARBITRATORS' SIGNATURES

Joseph A. Kenary, Chairman
Public Arbitrator

Patrick Sean Dolan
Public Arbitrator

5/19/97

Sidney B. Wachtel

Sidney B. Wachtel
Industry Arbitrator

Date Decision Served by NASD Regulation: May 30, 1997