

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Kenneth L. and Harriett J. Gillespie

94-02086

Name of Respondent

Chatfield Dean and Company, Inc.

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FL ARBITRATION

REPRESENTATION

For Claimant: Kenneth L. and Harriett J. Gillespie ("Gillespie"); Norman Meyers, Esq. of Sun City Center, Florida.

For Respondent: Chatfield Dean & Co. ("Chatfield"); Christa D. Taylor, Esq. corporate counsel.

CASE INFORMATION

Statement of Claim filed June 6, 1994.

Claimant's Submission Agreement signed on June 1, 1994.

Statement of Answer filed by Respondent, Chatfield on September 7, 1994.

Respondent, Chatfield's Submission Agreement signed on August 22, 1994.

HEARING INFORMATION

Hearings lasting five sessions on August 24, and August 25, 1995 where held in Tampa, Florida.

CASE SUMMARY

Claimants alleged that Chatfield through its account executive, Tamer Fahmy, engaged in unsuitable acquisitions and trades of securities given the Gillespie's goals and financial needs, engaged in excessive trades in the Gillespie account, exercised discretion without the necessary authority and, further, Chatfield was negligent in supervising Mr. Fahmy. Chatfield possessed the power to direct the activities and policies of Mr. Fahmy, who is employed by Chatfield as

a securities broker, and either condoned the actions of Fahmy or failed to exercise even the slightest care to prevent his fraudulent or negligent actions. Therefore, Chatfield is liable to the Gillespies because Mr. Fahmy was Chatfield's agent and because Chatfield is a "controlling person" under Section 20 (a) of the Securities Exchange Act of 1934 and is liable for the conduct of Mr. Fahmy. Mr. Fahmy handled the Gillespie account while acting under the course and scope of his employment with Chatfield

Respondent denies all material allegations of the claim. Respondent alleges that Claimants are not the unsophisticated investors they purport to be and that they have a history of investing in extremely speculative issues. Contrary to the allegations Mr. Fahmy did not recommend "extremely speculative" securities to the Claimants, but suggested a balanced portfolio. Respondent further denies that Mr. Fahmy made any unauthorized purchases in Claimants' account nor that Mr. Fahmy pressured Claimants into making trades, or that he churned their account.

RELIEF REQUESTED

Claimants requested compensatory damages of at least \$36,215.09 together with the income the accounts should have realistically earned; pre-judgement interest on the compensatory damages and costs and fees of this action; reasonable attorney's fee pursuant to Section 517.211 (6) Fla. Stat.; punitive damages in the sound discretion of the arbitrators; such other relief such as mental anguish as the arbitrators find appropriate under the circumstances.

Respondent request that the arbitrators dismiss the claim and award them their costs of this proceeding.

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 and post hearing submissions, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

Respondent Chatfield Dean & Co. is found not liable and, therefore, all claims against it are hereby dismissed.

Claimants' request for interest, attorney's fees, punitive damages, and relief for mental anguish are denied.

Claimants are found liable for Respondent's costs in the amount of \$2,834.00.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the Panel has the forum fees in the amount of \$2,000.00 (~~four~~^{five} hearing session x \$400.00).

Claimants are hereby assessed \$2,000.00 for which the NASD shall retain the \$400.00 previously deposited in partial satisfaction thereof leaving a balance due to the NASD of \$1,600.00.

The NASD shall retain the non-refundable filing fee of \$120.00 paid by the Claimants.

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

Concurring Arbitrators' Signatures

Name

Public/Industry

Public

Public

Industry

November 29, 1995

Date of Decision: _____