

**N.A.S.D. AWARD**

**NATIONAL ASSOCIATION OF SECURITIES DEALERS**

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**In the Matter of the Arbitration Between**

**Name of Claimant**

Sean K. Fitzpatrick

94-02104

**Name of Respondents**

Valley National Investments, Inc.  
Thomas M. Riddle

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**REPRESENTATION**

For Claimant Sean K. Fitzpatrick ("Claimant"): Timothy F. Demers, Esq. of the law firm of Stevens & Lee.

For Respondents Valley National Investments, Inc. and Thomas M. Riddle: Thomas M. Riddle, President of Valley National Investments, Inc.

**CASE INFORMATION**

Statement of Claim filed: June 6, 1994.

Claimant's Submission Agreement signed on: May 23, 1994.

Joint Statement of Answer filed by Respondents on: September 7, 1994. Respondents Submission Agreement signed on: September 6, 1994.

**HEARING INFORMATION**

Hearing Date/Sessions: May 12, 1995 - two sessions

Hearing Location: NASD District Office, Philadelphia, PA

**CASE SUMMARY**

Claimant was employed by Respondent as a registered representative following working for Pilgrim Planning. Upon leaving employment of Respondent, Claimant alleged that Respondent failed to pay commissions and referral fees upon

severing ties with Respondent. Claimant also requested costs associated with duplicating records, damages in customer relations, punitive damages, interest and attorney's fees.

Respondents maintained that the firms accounts belong to the broker/dealer not Claimant. Respondents maintained that no commissions are owed to Claimant. Respondents maintained that no monies are owed to Claimant for referral fees, cost associated with duplicating or for damages to customer relations. Respondents maintained that it committed no wrongs in their termination of their relationship with Claimant.

Respondents counterclaimed alleging that Claimant wrongfully and maliciously solicited the accounts of the broker/dealer, and that such accounts are the property of the broker/dealer. Respondents counterclaimed that the acts committed by Claimant amounted to gross negligence.

Claimant maintained that there was no wrongful solicitation of accounts. Claimant maintained that Respondents damage calculation cannot be substantiated. Claimant maintained that he committed no acts of negligence and/or maliciously.

#### **RELIEF REQUESTED**

Claimant requested \$4,082 in unpaid commissions; \$225 in tax, referral commissions, record duplication costs in the amount of \$10,601; \$15,000 in damages to customer relations, punitive damages, interest cost and attorney's fee. Claimant requested that Respondents' counterclaim be denied in its entirety.

Respondents requested that Claimant's claim be denied in its entirety. Respondents requested an award of \$29,000 on their counterclaim plus punitive damages, interest and costs.

#### **AWARD**

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

1. That Claimant's claim is denied in its entirety.
2. That Respondents' counterclaim is denied in its entirety.
3. That the parties request for punitive damages is denied in its entirety.

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4. That the parties shall bear their respective costs including attorney's fees.

**FORUM FEES**

Pursuant to Section 44(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed.

2 sessions X \$300 = \$600

Forum fees shall be assessed equally against the parties so that Claimant is assessed forum fees in the amount of \$300; however, Claimant is entitled to offset this amount with his hearing session deposit of \$300 so that no additional fees are due from Claimant. Respondents assessed forum fees in the amount of \$300; however, Respondents are entitled to offset this amount with their hearing session deposit of \$300 so that no additional fees are due from Respondent.

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

By The Arbitration Panel:

Dated:

5/24/95



A. Louis Denton, Esq., Presiding  
Industry Arbitrator

Date Award Served By the NASD: May 30, 1995