

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Ray and Leonor Knopke

95-00044

Name of Respondents

The Wellington Group, Inc.
Robert Fiore
Scott Schalk
Neville Golvala
Thomas Egan
Mark Corso

REPRESENTATION

For Claimants, Jon A. McAuliffe, Esq., of Shof, Smith, Henner & Gramovot, Tampa, FL.

For Respondents The Wellington Group, Inc. ("Wellington"), Robert Fiore ("Fiore"), Thomas Egan ("Egan"), and Mark Corso ("Corso"), all pro se. For Respondent Scott Schalk, ("Schalk") Dominick J. Porto, Esq. New York, NY. For Respondent Neville Golvala, ("Golvala") Michael F. Bachner, Esq. New York, NY.

CASE INFORMATION

Statement of Claim filed January 3, 1995 and Amended Statement of Claim, filed March 27, 1995.

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

Joint Statement of Answer filed by Respondents, Wellington, Fiore, Schalk, and Golvala received on March 3, 1995.

Respondent, Egan's, Statement of Answer filed January 2, 1996.

HEARING INFORMATION

On March 22, and 27, 1996, and October 21, 1996 pre-hearing conferences lasting 3 sessions

were conducted via telephone conference call with the arbitrators. On May 15, 1996, October 28, and October 29, 1996 in Tampa, FL hearings lasting 6 sessions were conducted.

CASE SUMMARY

Claimants, alleged that they did not authorize Wellington or its agents or employees to place the Claimants' funds into highly speculative stocks. The Claimants further alleged that the Respondents commencing in approximately January, 1994, and continuing through November, 1994 proceeded to engage in highly speculative stock purchases and sales, on margin accounts, without obtaining the prior approval of the Claimants. The purchase and sales of these highly speculative investments, on margin accounts, were totally unsuitable for the financial position of the Claimants. In addition, the Claimants further alleged that the volume of purchase and sales of the securities by the Respondents constitutes churning. The Claimants allege the following violations: violation of the NASD Rules and Regulations, fraud, negligence, inadequate supervision, violation of the Securities and Exchange Act of 1934, breach of contract, violation of the Florida Securities and Investor Protection Act.

Respondents deny all allegations of wrongdoing, and alleged that based on Claimants' past experience and his express desire to trade speculatively, Respondents made recommendations that were well suited to Claimants' stated financial needs and objectives. Respondents further allege that the Claimants possessed the requisite level of investor sophistication and financial means to render untenable their allegation of unsuitability.

RELIEF REQUESTED

Claimants requested compensatory damages exceeding \$122,000.00, prejudgment interest, attorney's fees and cost of this action.

Respondents requested that the claim be dismissed in its entirety and that costs be awarded in their favor.

OTHER ISSUES CONSIDERED & DECIDED

Prior to or during the hearing Respondents Robert Fiore and Neville Golvala were dismissed as Respondents from this proceeding. During the hearing on October 29, 1996 the Claimants announced their settlement with Respondents Scott Schalk, Thomas Egan and Mark Corso.

Respondent, The Wellington Group, Inc., failed to submit an executed Submission Agreement or to appear at the hearing. This Panel finds it has jurisdiction pursuant to Rule 10301 of the Code of Arbitration Procedure ("Code") because Wellington was an NASD member firm at the time this controversy arose.

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:

Respondent, The Wellington Group, Inc., is found solely liable, and shall pay to the Claimants the amount of \$96,000.00, plus interest in the amount of \$19,000.00.

Respondent, The Wellington Group, Inc., is found solely liable, and shall pay to the Claimants the further amounts of \$12,000.00 for attorney fees and \$2,687.19 in costs.

FORUM FEES

Pursuant to Rule 10322(c) of the Code the Panel has assessed forum fees in the amount of \$5,400.00, (3 pre-hearing conferences x \$300 plus 5 hearing sessions x \$750).

Respondent, The Wellington Group, Inc., is hereby assessed \$5,400.00, \$750.00 of which shall be paid directly to the Claimants, and \$4,650.00 of which shall be paid directly to the NASD.

The NASD shall retain the non-refundable filing fee of \$200.00 paid by the Claimant.

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

Concurring Arbitrators' Signatures

Name

/s/

Public/Industry

James F. Turner, III

Public

/s/

Harold C. Anders

Industry

/s/

Stanley Lampert

Public

January 8, 1997

Date of Decision: _____