

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Paul J. Fike

95-01790

Name of Respondents

Carl G. Gordinier
L.C. Wegard & Co., Inc.

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on April 11, 1995, Claimant Paul J. Fike ("Claimant"), who appeared Pro Se, alleged that Respondents L.C. Wegard & Co., Inc. ("LCW") and Carl G. Gordinier ("Gordinier"), contacted him via telephone and recommended that he should buy shares of Sanyo Industries, Inc. ("SI"), an automotive parts manufacturer, which he followed to his detriment. Claimant further alleged that Gordinier stated that SI had a new contract with AutoZone and that as a result of that contract, the stock price would be going higher. Claimant contended that he was never asked about his investment experience, never told that LCW was a market maker in the stock, never informed that the investment was speculative nor was he told SI was essentially a penny stock. Claimant further contended that he refused to pay for the shares until he was provided with information regarding the transaction, but eventually paid without receiving the information to avoid possible legal problems. Claimant alleged that as a result of the above, he has suffered a loss for which the Respondents should be held liable.

Respondents L.C. Wegard & Co., Inc. and Carl G. Gordinier, through their in-house representative, William Erb, maintained that Claimant represented himself to be an experienced and sophisticated investor and directed Gordinier to purchase securities for his account. Respondents further maintained that Claimant was provided with all the information necessary to make an informed decision and that the stock was not a penny stock. Respondents contended that Gordinier took diligent steps to get to know the Claimant, such as his employment and his net worth as well as his investment objectives. Respondents further contended that SI was determined to be suitable for the Claimant and was then recommended. Respondents maintained that the Claimant's correspondence indicates that he was a knowledgeable and sophisticated investor. Respondents further maintained that as a result of the above, they should not be held liable.

RELIEF REQUESTED

Claimant Paul J. Fike, requested \$4,200.00 in actual damages, plus punitive damages, interest and costs.

Respondents L.C. Wegard & Co., Inc. and Carl G. Gordinier, requested that the claims of the Claimant be dismissed.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Joseph Carlisi, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant Paul J. Fike, on April 6, 1995, and by the Respondent L.C. Wegard & Co., Inc., on August 15, 1995, and not by Carl G. Gordinier, as required by Sections 12 and 13 of the NASD Code of Arbitration Procedure.

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 Respondents L.C. Wegard & Co., Inc. and Carl G. Gordinier, are jointly and severally liable and shall pay to the Claimant Paul J. Fike, \$4,125.00 in actual damages.
2. The parties shall bear their respective costs.
3. All other relief requests are denied.
4. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Paul J. Fike, shall be retained by the NASD, Inc. The Respondents L.C. Wegard & Co., Inc. and Carl G. Gordinier, are jointly and severally liable and shall pay to the Claimant Paul J. Fike, \$75.00 as one-half reimbursement of the filing fee.

AFFIRMATION

I, JOSEPH CARLISI, ESQ., 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.



Joseph Carlisi, Esq.

DATE OF DECISION: October 30, 1995