

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Rudi B. and Susan Stone Miksa

95-01815

Name of Respondent

Stratton Oakmont, Inc.

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on April 17, 1995, Claimants, Rudi B. and Susan Stone Miksa ("Claimants"), through their representative, Robert G. Foley, Esq., of Monroe, LA, alleged that Respondent, Stratton Oakmont, Inc. ("Respondent"), failed to execute a sale of stock. Claimants further alleged that on August 15, 1994, they instructed the Respondent to sell their Doctor Pepper stock and their Octagon, Inc. stock. Claimants contended that Respondent did not take any action to sell their stock until on or about October 5, 1994. As a result of the above, Claimants alleged that they have suffered a loss for which the Respondent should be held liable.

Respondent, Stratton Oakmont, Inc., through its representative and outside counsel, Gregg R. Evangelist, Esq., of Ormsten & Evangelist, in Jericho, N.Y., maintained that Claimants knowingly, voluntarily and with full disclosure, opened their account with Respondent to trade in speculative and growth securities. Respondent further maintained that all of the transactions in Claimants' account were authorized and entered into with a full understanding of the risks and potential rewards. Respondent contended that this claim was inspired by the decline in value of the Claimants' investments and by negative publicity read by the Claimants, and is not the result of any act or omission on the part of the Respondent. As a result of the above, Respondent maintained that it should not be held liable.

RELIEF REQUESTED

Claimants, Rudi B. and Susan Stone Miksa, requested \$7,000.00 in actual damages, plus interest and costs.

Respondent, Stratton Oakmont, Inc., requested that the claims of the Claimants be dismissed in their entirety.

OTHER ISSUES CONSIDERED & DECIDED

The Arbitrator reviewed and considered Respondent's Motion to Strike. The Motion was denied.

After reviewing and considering the Respondent's Motion to Strike, the Arbitrator determined that he could act and decide the case impartially and fairly and, therefore, did not withdraw from this action.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Clayton J. Borne, III, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants, Rudi B. and Susan Stone Miksa, on April 5, 1995, and not by the Respondent, Stratton Oakmont, Inc., 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. Respondent, Stratton Oakmont, Inc., is liable and shall pay to the Claimants, Rudi B. and Susan Stone Miksa, \$7,000.00 in actual damages.
2. Respondent, Stratton Oakmont, Inc., is liable and shall pay to the Claimants, Rudi B. and Susan Stone Miksa, interest at the rate of 4% per annum from August 15, 1994 to October 13, 1994.
3. The parties shall bear their respective costs.
4. The \$150 .00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants, Rudi B. and Susan Stone Miksa, shall be retained by the NASD, Inc. Respondent, Stratton Oakmont, Inc., is liable and shall pay to the Claimants, Rudi B. and Susan Stone Miksa, \$150.00 as reimbursement of the filing fee.

AFFIRMATION

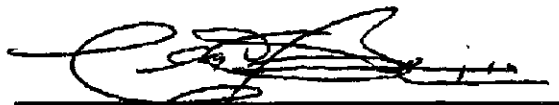
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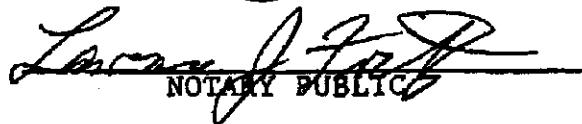
ss: CASE #95-01815

COUNTY OF JEFFERSON

I, CLAYTON J. BORNE, III, 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.



Signature of Arbitrator


NOTARY PUBLIC

DATE OF DECISION: October 18, 1995