

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

---

In the Matter of the Arbitration Between

Name of Claimant

Jo Ann St. Pierre

95-03258

Name of Respondents

Robert Thomas Securities, Inc.  
Thomas C. Ferguson

---

**REPRESENTATION**

For Claimant Jo Ann St. Pierre ("claimant") appeared Robert Fitzpatrick, Esq., a sole practitioner located in Clifton, New Jersey.

For Respondents Robert Thomas Securities, Inc. ("Robert Thomas") and Thomas C. Ferguson ("Ferguson") appeared Michael R. Alford, Esq., of the firm Robert Thomas Securities, Inc. located in St. Petersburg, Florida.

**CASE INFORMATION**

The Statement of Claim was filed on July 6, 1995.

Claimant's Submission Agreement was signed on July 1, 1995.

Respondents Robert Thomas and Ferguson's Joint Statement of Answer was filed on August 28, 1995.

Respondent Robert Thomas's Submission Agreement was signed on August 28, 1995.

Respondent Ferguson's Submission Agreement was signed on September 1, 1995.

**HEARING INFORMATION**

Pre-Hearing Conference:	June 20, 1996	-	1 Session
Hearing Dates/Sessions:	December 2, 1996	-	2 Sessions
	December 3, 1996	-	2 Sessions

The hearings were held at the Marriot Hotel located in Albany, New York.

**CASE SUMMARY**

Claimant alleged that respondents churned her accounts in order to generate commissions and sales credits for themselves, while disregarding her investment needs. Claimant further alleged that

respondents made several investments that were unsuitable for her investment objectives and that respondents made these unsuitable investments in order to increase their commissions, sales credits, underwriting fees and trading profits. Claimant asserted that once Ferguson was appointed branch manager, Robert Thomas abdicated its responsibilities to supervise Ferguson's accounts. Claimant further asserted that on numerous occasions Ferguson would mark the tickets as unsolicited, when they were really solicited transactions.

Respondents Robert Thomas and Ferguson maintained that all trades made on behalf of claimant were executed with her prior knowledge and consent. Respondents further maintained that the securities were suitable for claimant given her investment objectives as discussed with respondent Ferguson. Respondents also maintained that claimant was fully informed of the risks associated with equities as well as limited partnerships and mutual funds. Respondents contended that claimant affirmatively acknowledged her understanding of said risks and deemed them acceptable prior to any trading activities being initiated in her accounts. Respondents denied that trades were done solely to generate commission income.

#### **RELIEF REQUESTED**

Claimant requested that the panel award her damages of \$117,144.08 in actual damages, plus attorneys' fees, court costs, and any other just and reasonable relief.

Respondents requested that the claims of claimant be dismissed in their entirety.

#### **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:

1. Claimant Jo Ann St. Pierre's claims against respondent Robert Thomas Securities, Inc. and Thomas Ferguson are dismissed in their entirety.
2. All other relief requests are denied.

#### **FORUM FEES**

Pursuant to Section 10332 of the Code of Arbitration Procedure, the arbitrators have determined that the NASD Regulation, Inc. shall retain the \$200.00 non-refundable filing fee and have assessed the following Forum Fees.

1 Pre-Hearing conference X \$300.00	=	\$300.00
4 Hearing Sessions X \$750.00	=	\$3,000.00
minus Hearing deposit \$750.00	=	<u>\$750.00</u>
Total outstanding	=	\$2,550.00

Claimant Jo Ann St. Pierre be and hereby is liable and shall pay the sum of \$1,650.00, representing one-half of the forum fees assessed. Claimant previously deposited \$750.00 with the NASD Regulation Inc. Therefore, claimant owes the NASD Regulation, Inc. \$900.00. Respondents be and hereby are jointly and severally liable and shall pay the sum of \$1,650.00, representing one-half of the forum fees assessed.

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

**ARBITRATOR'S SIGNATURE**

---

Donald G. Hatt, Esq.  
Public Chairperson

---

James J. Brearton, Esq.  
Public Panelist

---

James J. Carroll  
Industry Panelist

I, **Donald G. Hatt, Esq.**, do hereby affirm, pursuant to Article 7507 of the Civil practice law and Rules, that I am the individual described herein and who executed this instrument which is my award.

---

Donald G. Hatt, Esq.

I, **James J. Brearton, Esq.**, do hereby affirm, pursuant to Article 7507 of the Civil practice law and Rules, that I am the individual described herein and who executed this instrument which is my award.

---

James J. Brearton, Esq.

I, **James J. Carroll**, do hereby affirm, pursuant to Article 7507 of the Civil practice law and Rules, that I am the individual described herein and who executed this instrument which is my award.

---

James J. Carroll

Date of Decision: February 3, 1997