

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Robert E. Lawlor

95-03962

Name of Respondents

Nick Giandomenico
John Oehl

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on August 17, 1995, Claimant Robert E. Lawlor ("Claimant"), through his representative, John K. Lawlor, Esq., of Fort Lauderdale, Florida, alleged that he held account #639-35738-1-8 with J. Gregory & Co. ("JGC"). Claimant further alleged that Respondent Nick Giandomenico ("Giandomenico"), his account representative at JGC sold him 200 shares of Global Spill Management Company ("GSMC") and 300 shares of Comcentral Corporation. Claimant contended that Giandomenico and Respondent John Oehl ("Oehl") failed to properly advise him as to the risk involved with the JGC and GSMC investments. Claimant further contended that Giandomenico misrepresented highly speculative investments to him although his investment profile was never checked. Claimant alleged he had previously expressed to Respondents that he was only interested in low risk, long term growth stocks. Claimant alleged that as a result of the above, Respondents should be held liable.

Respondent Nick Giandomenico, who appeared Pro Se, maintained that he was a licensed broker employed by J. Gregory & Co., Inc and that he opened Claimant's account by purchasing the JGC and GSMC shares. Giandomenico further maintained a denial of any wrongdoing and contended a lack of knowledge regarding some of Claimant's allegations. Respondent contended that as a result of the above, he should be held liable.

Respondent John Oehl, through his representative, Joseph A. Vallo, Esq., of Fort Lauderdale, Florida, maintained that he neither sold Claimant shares of JGC and GSMC nor did he play a part in any other of Claimant's transactions. Oehl further maintained that he never made any misrepresentations regarding the stocks but that he recommended that Claimant "sell" his GSMC shares, which the Claimant refused to do. Respondent contended that he "inherited" the account after Giandomenico left the firm, and had very little contact with the Claimant because the Claimant refused to do business with him. Respondent further contended that as a result of the above, he should not be held liable.

RELIEF REQUESTED

Claimant Robert E. Lawlor, requested \$2,923.11 in actual damages plus interest, attorney's fees and costs.

Respondents Nick Giandomenico, and John Oehl, requested that the claims of the Claimant be dismissed.

OTHER ISSUES

Prior to a determination on the merits, the Claimant Robert E. Lawlor, was notified that J. Gregory & Co., Inc., filed a bankruptcy petition and, therefore, was removed as a Respondent from this matter.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Joseph L. Bernstein, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant Robert E. Lawlor, on August 7, 1995, and by the Respondent Nick Giandomenico, on November 8, 1995, and by Respondent John Oehl, on October 5, 1995.

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 claims of the Claimant Robert E. Lawlor, against Respondent John Oehl, are denied in their entirety.
2. The Respondent Nick Giandomenico, is liable and shall pay to the Claimant Robert E. Lawlor, \$2,923.00 in actual damages.
3. The Respondent Nick Giandomenico, is liable and shall pay to the Claimant Robert E. Lawlor, simple interest at the rate of 8% per annum from May 2, 1995 to date of payment of the award.
4. The \$125.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Robert E. Lawlor, shall be retained by the NASD, Inc. The Respondent Nick Giandomenico, is liable and shall pay to the Claimant Robert E. Lawlor, \$125.00 as reimbursement of the filing fee.
5. All other relief requests are denied.

AFFIRMATION

I, **JOSEPH L. BERNSTEIN, 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 L. Bernstein, Esq.

DATE OF DECISION: February 15, 1996