

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Jerry T. & Patricia H. Love

95-04060

Name of Respondent

Edward L. Rowell

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on August 23, 1995 Claimants Jerry T. and Patricia H. Love ("Claimants"), who appeared Pro Se, alleged that they held an account at Cohig & Associates, Inc. and that their account executive, Respondent Edward L. Rowell ("Respondent"), mismanaged their account. Claimants further alleged that Respondent recommended that he convert his entire \$5,600.00 investment into Magnetech. Claimant J. Love contended that when Magnetech dropped his investment to \$2,100.00, Respondent recommended that he purchase shares of Conversion ("CVD") stock and take a \$3500.00 tax loss. Claimant J. Love further contended that he purchased 150 shares of CVD at \$13.50 a share. Claimant J. Love alleged that when CVD reached \$32.00 per share and began falling through \$28.00, he called Respondent to sell his shares. Claimant J. Love further alleged that he made several calls to Respondent to sell his shares of CVD and that Respondent assured him that he would watch his account and sell CVD before it dropped below \$20.00 per share. Claimant J. Love contended that he requested that Respondent be replaced and his supervisor informed him that she would manage the account, but did not. Claimants further contended that because of Respondent's misrepresentation, failure to sell CVD when requested, bad advice and poor management, they have suffered a loss for which he should be held liable.

Respondent Edward L. Rowell, who appeared Pro Se, maintained that he recommended that Claimants sell their shares of Magnetech because of the massive selling by the original underwriters who had gone out of business. Respondent further maintained that he recommended that Claimants purchase shares of CVD and that he and J. Love discussed the long term strategy. Respondent contended that Claimant J. Love called several times and asked for a prognosis for CVD and that he told him to hold his shares. Respondent further contended that during the phone calls, J. Love did not tell him to sell the stock but just asked for an opinion. Respondent asserted that in no way did he breach his fiduciary duty or ignore any direct orders given by the Claimants, and further that every strategy was devised and followed with complete cooperation of J. Love. Respondent maintained that he has committed no wrongdoing, and therefore, he should not be held liable in this matter.

RELIEF REQUESTED

Claimants Jerry T. and Patricia H. Love, requested \$4,668.75 in actual damages.

Respondent Edward L. Rowell, requested that the claims of the Claimants be dismissed.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Barry H. Barnett, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants Jerry T. and Patricia H. Love on August 18, 1995 and by the Respondent Edward L. Rowell on November 29, 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. Respondent Edward L. Rowell is liable and shall pay to Claimants Jerry T. and Patricia H. Love \$1,600.00 in actual damages.
2. Claimants Jerry T. and Patricia H. Love shall relinquish to Respondent Edward L. Rowell 150 shares of Conversion (CVD) and 30 shares of PDG Environmental Inc. (PDGE).
3. The parties shall bear their respective costs.
4. The \$125.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc. Respondent Edward L. Rowell shall pay to Claimants Jerry T. and Patricia H. Love \$62.50 as reimbursement of one-half of the filing fee.

AFFIRMATION

I, **BARRY H. BARNETT, 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.

A handwritten signature in cursive script, appearing to read "Barry H. Barnett", is written over a horizontal line.

Barry H. Barnett, Esq.

DATE OF DECISION:

April 26, 1996