

FINAL ORDER

NASD Regulation, Inc. Office of Dispute Resolution

In the Matter of the Arbitration Between

William G. Noble, Jr.,

Claimant,

and

No. 95-04273

Cohig & Associates, Inc. and Richard J. Lawrence,

Respondents,

Consolidated with:

In the Matter of the Arbitration Between

Juanita H. Noble and William G. Noble, Jr.,

Claimants,

and

No. 95-04234

Cohig & Associates, Inc. and Richard J. Lawrence,

Respondents,

Consolidated with:

In the Matter of the Arbitration Between

Noble I & Associates, L.P.,

Claimant,

and

No. 95-04499

Cohig & Associates, Inc. and Richard J. Lawrence,

Respondents.

REPRESENTATION OF PARTIES

Claimants William G. Noble, Jr., Juanita H. Noble and William G. Noble, Jr., and Nobel I & Associates, L.P. were represented by J. Ralph Ewing of Securities Consulting, located in Mesquite, Texas.

Respondents Cohig & Associates, Inc. and Richard J. Lawrence were represented by Dennis A. Graham, Esquire, of Terry, Syke & Graham, P.C., located in Denver, Colorado.

CASE INFORMATION

Case No. 95-04273

Claimant William G. Noble, Jr.'s Statement of Claim was filed on or about September 7, 1995. Claimant William G. Noble, Jr. also filed a First Amendment to Statement of Claim. Claimant William G. Noble, Jr.'s Submission Agreement was signed on August 17, 1995.

Respondents Cohig & Associates, Inc. and Richard J. Lawrence's Statement of Answer was filed on or about November 1, 1995. Respondent Cohig & Associates, Inc. and Richard J. Lawrence's Statement of Answer to Claimant's First Amendment to Statement of Claim was filed on or about January 22, 1996. Respondent Cohig & Associates, Inc.'s Submission Agreement was signed on October 31, 1995, by Russ Bean, General Counsel of Cohig & Associates, Inc. Respondent Richard J. Lawrence's Submission Agreement was signed on October 31, 1995.

Case No. 95-04234

Claimants Juanita H. Noble and William G. Noble, Jr.'s Statement of Claim was filed on or about September 6, 1995. Claimants Juanita H. Noble and William G. Noble, Jr.'s First Amendment to Statement of Claim was filed on or about January 2, 1996. Claimants Juanita H. Noble and William G. Noble, Jr.'s Submission Agreement was signed on July 31, 1995.

Respondents Cohig & Associates, Inc. and Richard J. Lawrence's Statement of Answer was filed on or about November 1, 1995. Respondents Cohig & Associates, Inc. and Richard J. Lawrence's Statement of Answer to Claimant's First Amendment to Statement of Claim was filed on or about January 22, 1996. Respondent Cohig & Associates, Inc.'s Submission Agreement was signed on October 31, 1995, by Russ Bean, General Counsel of Cohig & Associates, Inc. Respondent Richard J. Lawrence's Submission Agreement was signed on October 31, 1995.

Case No. 95-04499

Claimant Noble I & Associates, L.P.'s Statement of Claim was filed on or about September 22, 1995. Claimant Noble I & Associates, L.P.'s First Amendment to Statement of Claim was filed on or about January 10, 1996. Claimant Noble I & Associates, L.P.'s Submission Agreement was signed on September 15, 1995, by William G. Noble, Jr. of Noble I & Associates, L.P.

Respondents Cohig & Associates, Inc. and Richard J. Lawrence's Statement of Answer was filed on or about October 31, 1995. Respondents Cohig & Associates, Inc. and Richard J. Lawrence's Statement of Answer to Claimant's First Amendment to Statement of Claim was filed on or about January 22, 1996. Respondent Cohig & Associates, Inc.'s Submission Agreement was signed on October 31, 1995, by Russ Bean, General Counsel of Cohig & Associates, Inc. Respondent Richard J. Lawrence's Submission Agreement was signed on October 31, 1995.

HEARING INFORMATION

A large and complex administrative conference was held on December 21, 1995 for one (1) session.

A pre-hearing conference was held on October 7, 1996 for one (1) session.

The hearing was held on: October 14, 1996 for two (2) sessions;
 October 15, 1996 for two (2) sessions;
 October 16, 1996 for two (2) sessions; and
 October 17, 1996 for two (2) sessions.

The hearing was held in Dallas, Texas.

CASE SUMMARY

Case No. 95-04273

Claimant William G. Noble, Jr. ("Mr. Noble") alleged that respondents Cohig & Associates, Inc. ("Cohig") and Richard J. Lawrence ("Mr. Lawrence") (hereinafter collectively referred to as "Respondents") made unsuitable investments, mismanaged, and failed to adequately supervise the trading in his account. Mr. Noble asserted losses on the following Cohig selected investments: \$89,264.41 on Alert, which was purchased at \$146,439.41; \$8,533.00 on Media Arts, which was purchased at \$36,733.00; \$29,687.50 on Packaging Research, which was purchased at \$35,312.50; \$100,000 on Caribou, a Cohig limited partnership, which was purchased at \$100,000.00; and \$50,000 on Hurdy Gurdy, a private placement, which was purchased at \$50,000.00. Mr. Noble further asserted that Respondents have refused to repurchase any of their investments that have not been liquidated.

Respondents denied the allegations set forth in the Statement of Claim. Respondents stated that Mr. Noble's losses were due to market conditions or Mr. Noble's failure to follow Mr. Lawrence's advice regarding the suitability of investments. Respondents further stated that at all relevant times, Mr. Lawrence managed Mr. Noble's account reasonably, professionally, legally and in accordance with Mr. Noble's stated investment objectives, and that Respondents adhered to reasonable and appropriate compliance procedures. Respondents denied that any trading in Mr. Noble's account was done without his authorization, that his account was mismanaged, or that they breached their

fiduciary duties to Mr. Noble. Respondents asserted that Mr. Noble's claims were bared by applicable statutes of limitation and his failure to mitigate damages.

Case No. 95-04234

Juanita H. Noble and William G. Noble, Jr. ("Ms. Noble and Mr. Noble") alleged that Respondents failed to follow Ms. Noble and Mr. Noble's investment objectives of income and safety, and failed to properly supervise the handling of their Cohig account. Ms. Noble and Mr. Noble complained of the purchases of the following Cohig selected securities: ACM for \$10,100.70; Blackrock for \$2,026.00; Franklin for \$28,768.00; MSF for \$27,216.00; Mentor for \$28,485.00; G.T. Global for \$10,305.87; and NTS for \$30,000.00. Claimants Ms. Noble and Mr. Noble claimed the following damages: \$26,722.00 for anticipated loss on Cohig & Associates, Inc.'s selected securities, plus \$2,075.00 for estimated commission expense on sale, and \$300.00 for estimated commission expense on purchase; \$30,000.00 for anticipated loss on NTS Mortgage Fund; less \$400.00 for anticipated profit on sale of 1,203.33 shares of G.T. Global.

Respondents denied the allegations set forth in the Statement of Claim. Respondents stated that Ms. Noble and Mr. Noble's losses were due to market conditions or Mr. Noble's failure to follow Mr. Lawrence's advice regarding the suitability of investments. Respondents further stated that at all relevant times, Mr. Lawrence managed Ms. Noble and Mr. Noble's account reasonably, professionally, legally and in accordance with their stated investment objectives, and that Respondents adhered to reasonable and appropriate compliance procedures. Respondents denied that any trading in Ms. Noble and Mr. Noble's account was done without authorization, that their account was mismanaged, or that any fiduciary duties were breached. Respondents asserted that Ms. Noble and Mr. Noble's claims were bared by applicable statutes of limitation and their failure to mitigate damages.

Case No. 95-04499

Claimant Noble I & Associates, L.P. ("Noble I") alleged that Respondents: made unsuitable investments in its account by failing to follow Noble I's investment objectives of income, growth, and not more than 10% speculation; mismanaged its account; made misrepresentations of material facts in order to minimize losses and increase income; conducted unauthorized trading; and failed to properly supervise the handling of its Cohig account. Noble I complained of the following Cohig selected securities which were purchased in its account:

<u>General Security</u>	<u>Gain (Loss)</u>	
Muni High Income		Franklin
\$(11,250.00)		(20,625.00)
Dreyfus		Govett
(8,750.00)		(40,614.00)
Cap Preferred YLD Fund	6,240.00	GT Global
Continental Cap		(18,342.00)
(200,000.00)		Hancock Pacific Basin
		(16,487.00)

<u>General Security</u>	<u>Gain (Loss)</u>
Leasetec	
\$(16,706.00)	
Mentor	
(49,705.00)	
MFS	
(93,424.00)	
NTS	
(130,050.00)	
PKG Research Bonds	
(32,000.00)	
Towers	
(300,000.00)	
Vector Chisolm	7,652.00

<u>Speculative Security</u>	<u>Gain (Loss)</u>
Chiana Industrial	
\$(7,930.00)	
DCX	
(5,440.00)	
Global Health	
(1,125.00)	
Good Times	
(29,830.00)	
Home Theater	
(20,262.00)	
Inter. Varifact	
(37,765.00)	

<u>Speculative Security</u>	<u>Gain (Loss)</u>
Marcum Gas	
\$(52,700.00)	
Pack Res Stock	
(68,220.00)	
Salton Maxim	
(6,808.00)	
Stayodyn	
(56,469.00)	
Western Acceptance	
(48,065.00)	
Xscribe	
(50,682.00)	

Noble I asserted that Respondents breached their fiduciary duty in allowing these losses to occur. Noble I further asserted that Respondents sold its holding in ACM for a loss of \$75,925.00 without its authorization. Noble I claimed the following compensatory damages: \$924,061.00 for the loss on all general securities; \$385,296.00 for the loss of capital on speculative securities; \$43,467.00 for the loss of income on speculative securities (6%); \$75,925.00 for the loss on unauthorized trading; \$15,000.00 for estimated commission on liquidation of securities; and \$15,000.00 for estimated commission on replacement of securities.

Respondents denied the allegations set forth in the Statement of Claim. Respondents stated that Noble I's losses were due to market conditions or Mr. Noble's failure to follow Mr. Lawrence's advice regarding the suitability of investments. Respondents further stated that at all relevant times, Mr. Lawrence managed Noble I's account reasonably, professionally, legally and in accordance with its stated investment objectives, and that Respondents adhered to reasonable and appropriate compliance procedures. Respondents denied that any trading in Noble I's account was done without authorization, that its account was mismanaged, or that any fiduciary duties were breached. Respondents asserted that Noble I's claims were barred by applicable statutes of limitation and its failure to mitigate damages.

RELIEF REQUESTED

Case No. 95-04273

Claimant William G. Noble, Jr. requested an award in the amounts of \$368,484.91 for the purchase of all of Cohig & Associates, Inc.'s selected investments, \$44,218.19 for interest at 6% over two (2) years, and \$950 for cost of arbitration. Claimant William G. Noble, Jr. also requested an award for punitive damages in an amount no less than \$10,000.00.

Respondents Cohig & Associates, Inc. and Richard J. Lawrence requested that the claims asserted against them be dismissed in their entirety and that they be awarded their attorney fees.

Case No. 95-04234

Claimants Juanita H. Noble and William G. Noble, Jr. requested an award in the amount of \$66,667.00 for compensatory damages. Claimants Juanita H. Noble and William G. Noble, Jr. also requested an award in the amounts of \$650.00 for costs of arbitration, \$1,000.00 for estimated miscellaneous expenses, and \$6,720.00 for interest at 6% on \$56,000.00 over two (2) years.

Respondents Cohig & Associates, Inc. and Richard J. Lawrence requested that the claims asserted against them be dismissed in their entirety and that they be awarded their attorney fees.

Case No. 95-04499

Claimant Noble I & Associates, L.P. requested: an award in the amount of \$1,458,749.00 for compensatory damages; an award in the amount of \$1,250.00 for costs of arbitration; and an award in the amount of \$250,000.00 for punitive damages.

Respondents Cohig & Associates, Inc. and Richard J. Lawrence requested that the claims asserted against them be dismissed in their entirety and that they be awarded their attorney fees.

OTHER ISSUES CONSIDERED & DECIDED

Prior to the hearing in this matter, Respondents Cohig & Associates, Inc. and Richard J. Lawrence moved for consolidation of the arbitrations of Case Nos 95-04273, 95-04234, 95-04499, and 95-04497 and also moved for the appointment of five (5) arbitrators; Claimants William G. Noble, Jr., Juanita M. Noble and William G. Noble, Jr., and Noble I & Associate, L.P. objected to both of these motions. After careful consideration, the undersigned panel of arbitrators denied the motion to consolidate without prejudice, and denied the motion for five (5) arbitrators with prejudice. Subsequently, pursuant to a signed agreement dated June 10, 1996, all parties to the matters of arbitration, noted as Case Nos 95-04273, 95-04234, and 95-04499, agreed to consolidate, and said cases were consolidated pursuant to § 10314(d) of the NASD Code of Arbitration Procedure.

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with NASD Regulation, Inc. Office of Dispute Resolution.

AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing and the post-hearing submissions, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. That Respondents Cohig & Associates, Inc. and Richard J. Lawrence's motion to dismiss the Statements of Claim, which was made at the hearing of this matter, is hereby granted with prejudice;
2. That Claimants William G. Noble, Jr., and Noble I & Associates, L.P. are jointly and severally liable for and shall pay Respondents Cohig & Associates, Inc. and Richard J. Lawrence's attorney fees and costs in the amount of \$65,000.00, pursuant to Respondents Cohig & Associates, Inc. and Richard J. Lawrence's evidence and argument at the hearing and post-hearing Brief As to Why Respondents are Entitled to Costs and Attorneys' Fees;
3. That other than forum fees, which are addressed below, all other claims and requests for relief not specifically awarded here are, and each of them, hereby denied with prejudice.

FORUM FEES

Forum fees are calculated at the rate of \$1,000 per hearing session and \$300 for each pre-hearing conference and large and complex administrative conference, if any. There was one (1) pre-hearing conference session x \$300 = \$300 in forum fees. There were eight (8) hearing sessions x \$1,000 = \$8,000 in forum fees. Total forum fees are thus \$8,300 (= \$300 + \$8,000). Pursuant to §10332(b) of the NASD Code of Arbitration Procedure (the "Code") a hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with an arbitrator, which lasts four (4) hours or less.

Pursuant to §10332(c) of the Code, NASD Regulation, Inc. Office of Dispute Resolution shall retain the non-refundable filing fees in the amount of \$600 and shall retain as forum fees the hearing session deposit in the amount of \$2,250 previously deposited with NASD Regulation, Inc. Office of Dispute Resolution by Claimants William G. Noble, Jr., Juanita H. Noble and William G. Noble, Jr., and Noble I & Associates, L.P.

Respondent Cohig & Associates, Inc. is liable for and shall pay the member surcharge fees in the amount of \$1,150 pursuant to §10333 of the Code. In addition, Respondent Cohig & Associates, Inc. is liable for and shall pay the cost of the overhead projector and screen that it requested, in the amount of \$306.56.

Claimants William G. Noble, Jr., Juanita H. Noble and William G. Noble, Jr., and Noble I & Associates, L.P. are jointly and severally liable for and shall pay forum fees in the amount of \$ 6,050 (= \$8,300 total forum fees - \$2,250 hearing session deposit).

Fees are payable to NASD Regulation, Inc. Office of Dispute Resolution.

Dated:

/s/ Franklin A. Arnold
Franklin Anthony Arnold, Esquire
Public Arbitrator, Presiding Chair

3/11/97 _____

/s/ Joann Peters
Joann Peters, Esquire
Public Arbitrator

3/20/97 _____

/s/ David L Baker
David L. Baker
Industry Arbitrator

3/21/97 _____

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Disciplinary Referral

NASD Regulation, Inc. Office of Dispute Resolution

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and

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Respondents.

REPORT OF ARBITRATORS

During the course of the hearing of the above captioned matter, the undersigned arbitrators heard evidence which warrants this referral for investigation. The undersigned feel that an investigation of the Claimant's representative and NASD member J. Ralph Ewing for the activities outlined is warranted: gross negligence in his representation of Claimant's as demonstrated by his failure to present the facts and law at issue in a professional manner; his reckless disregard for the truth of the facts as presented; his reckless or purposeful attempt to mislead the panel; his utter disregard for complying with the NASD Code of Arbitration Procedure and his failure to conduct himself appropriately at the hearing of the above captioned matter.

Arbitrators:

Dated:

/s/ Franklin Anthony

3/11/07

Franklin Anthony Arnold, Esquire
Public Arbitrator, Presiding Chair

/s/ Joann Peters

3/20/97

Joann Peters, Esquire
Public Arbitrator

/s/ David L. Baker

3/21/97

David L. Baker
Industry Arbitrator