

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

John L. McCormick

95-04276

Name of Respondent

Kemper Securities, Inc.

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on September 7, 1995, Claimant John L. McCormick ("Claimant"), who appeared Pro Se, alleged that Respondent Kemper Securities, Inc. ("Respondent") through its representative Robert Hillis ("Hillis") convinced him to transfer his individual retirement account ("IRA") to Kemper with the promise of professional account management. Claimant further alleged that while his IRA was at Kemper it dropped \$5,000.00 in value without Hillis knowing of the decline. Claimant contended that Hillis rejected his recommendation that he purchase Johnson & Johnson stock and instead purchased Syntex, a volatile stock. Claimant further contended that Hillis left Kemper and Eileen Petrillo ("Petrillo") became his account executive and she disapproved of the way Hillis had invested the IRA. Claimant alleged he instructed Petrillo to sell the stock he held in Morrison Knudsen Corp., Thornburg Mortgage Asset Corp. WMX Tech Inc. and Waste Management International which she did, but she sold his Pier 1 Imports stock as well. Claimant further alleged that Petrillo advised him to purchase shares of Intervoice and Maytag Corp. which he did to his detriment. Claimant contended he was unable to get a favorable resolution of the dispute concerning the manner in which his account was handled, and that as a result of the above, he has suffered a loss for which the Respondent should be held liable.

Respondent Kemper Securities, Inc., through its representative and in-house counsel, Don Andrews, Esq., maintained that Claimant is a speculative investor who is unwilling to bear the responsibility for trades which he authorized. Respondent further maintained that it did not manage his account because it was a non-discretionary account. Respondent contended that Claimant made only a few purchases, explicitly authorizing every transaction, with the primary investment objective of "speculative capital appreciation." Respondent further contended that phone logs demonstrate that each trade was discussed with the Claimant. Respondent maintained that as a result of the above, it should not be held liable.

RELIEF REQUESTED

Claimant John L. McCormick requested \$8,322.67 in actual damages.

Respondent Kemper Securities, Inc., requested that the claims of the Claimant be dismissed.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Franklin Anthony Arnold, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on August 29, 1995, and by the Respondent on October 17, 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 John L. McCormick against Respondent Kemper Securities, Inc. are denied in their entirety.
2. The parties shall bear their respective costs.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc.

Inc. on September 7, 1995, Claimant John L. McCormick, National Association of Securities Dealers, Inc. (NASD), Inc. 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.


Franklin Anthony Arnold, Esq.

DATE OF DECISION: April 1, 1996