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N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Vincenzo & Nunzia Rossiello

95-04806

Name of Respondent

Anthony Cantone

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Securities Dealers, Inc.

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CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on October 11, 1995, Claimants Vincenzo and Nunzia Rossiello ("Claimants"), who appeared Pro Se, alleged that Respondent Anthony Cantone ("Respondent"), failed to adequately disclose the risky nature of the stocks which the Claimants purchased through Respondent. Claimants further alleged that they opened a brokerage account with Gruntal & Company and that Respondent was the account executive. Claimants contended that Respondent falsely completed the New Account Form for Gruntal & Company and inflated the Claimants' annual income to \$40,000.00. Claimants further contended that they wished to invest in conservative low-risk stocks and that Respondent was aware of this investment objective. Claimants asserted that Respondent encouraged Claimants to purchase 500 shares of RMI Titanium ("RMI") at \$6 1/4. Claimants further asserted that in February 1992, Respondent telephoned them and encouraged them to sell their stock of RMI and to purchase 500 shares of Scorpion Technologies ("ST") at \$4 5/16. The Claimants alleged that the value of this stock declined and ultimately became worthless. Claimants further alleged that Respondent failed to adequately disclose the fact that the stocks in question were considered risky and aggressive investments and that Respondent failed to provide suitable investment advice. Claimants contended that Respondent attempted to exploit the Claimants' poor understanding of English in encouraging the Claimants to purchase RMI and ST stocks. The Claimants alleged that because of the Respondent's wrongdoing, they suffered damages to which the Respondent should be held liable.

Respondent Anthony Cantone, who appeared Pro Se, maintained in his Answer that he represented himself to the Claimants as a broker who specialized in high risk investments and that he fully disclosed to the Claimants all risks associated with the purchase of RMI and ST. Respondent further maintained that the Claimants stated that they understood the high risk nature of the investments. Respondent contended that based on his professional judgement and after reviewing the Claimants financial situation, Respondent concluded that it would be suitable for the Claimants to invest a small portion of their assets in high risk stocks. Respondent further contended that he encouraged Claimants to sell the ST stocks when the value of the stock began to decline, but that the Claimants failed to heed his advice.

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Respondent contended that he did not falsify Claimant's income and also maintained that the \$40,000.00 figure on the Claimants' New Account Form was based on the Claimants' unreported income. Respondent further maintained that he committed no wrongdoing and should not be held liable.

In a Counterclaim to the Statement of Claim, Respondent alleged that the claims of the Claimants were defamatory and have damaged his professional reputation. The Respondent further alleged that the Claimants had engaged in securities fraud. The Respondent maintained that because of the Claimants' wrongdoing, Respondent has suffered damages to which the Claimants should be held liable.

In a Reply to the Counterclaim, Claimant Nunzia Rossiello maintained that Respondent never mentioned the aggressive and risky nature of the RMI stock and that had she been aware of such risk she would not have agreed to purchase the stock. Claimant further maintained that Respondent attempted to exploit her limited understanding of English and that at no time did she reveal to Respondent the financial condition of her family.

In Response to the Reply to the Counterclaim, Respondent reasserted that Claimant Nunzia Rossiello stated that she understood the risk involved in the purchase of the stocks and that he fully disclosed the nature of such risks to the Claimants. Respondent further reasserted that the Claimants chose to speak English during all of their encounters. The Respondent further maintained that the allegations of the Claimants were defamatory and that he is entitled to the damages he has suffered in connection with this claim.

#### **RELIEF REQUESTED**

Claimants Vincenzo and Nunzia Rossiello requested \$10,000.00 in actual damages.

Respondent Anthony Cantone requested that the claims of the Claimants be dismissed. In a Counterclaim, Respondent requested \$10,000.00 in actual damages, pursuant to a counterclaim.

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**AWARD**

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Edwin P. Brooks, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants Vincenzo and Rossiello on September 13, 1995, and by the Respondent Anthony Cantone on April 3, 1996.

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 Claimants Vincenzo and Nunzia Rossiello, against the Respondent Anthony Cantone are dismissed in their entirety.
2. Counterrespondents Vincenzo and Nunzia Rossiello are liable and shall pay to Counterclaimant Anthony Cantone \$1,500.00 in actual damages.
3. The parties shall bear their respective costs.
4. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants Vincenzo and Nunzia Rossiello, shall be retained by the NASD, Inc.

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**AFFIRMATION**

I, **EDWIN P. BROOKS**, 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.

*Edwin P. Brooks*

DATE OF DECISION:

June 24, 1996