

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Jackie R. and Nina F. Stewart

95-05250

Name of Respondents

Gruntal & Co., Inc.
Scott L. Mathis

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on November 6, 1995, Claimants Jackie R. and Nina F. Stewart ("Claimants"), who appeared Pro Se, alleged that Respondents, Gruntal & Co., Inc. ("Gruntal"), and its Senior Vice President, Scott L. Mathis ("Mathis"), made unauthorized trades in their account. Claimants further alleged that on January 31, 1994, without authorization and after they told him that they could not afford to sell their stock, Mathis sold 5000 shares of Triad System Corp. ("Triad"), resulting in a loss of \$5,639.40. Claimants contended that Mathis, again without authorization, used the proceeds of that sale to purchase 2500 shares of Warrentech Inc. ("Warrentech"), and that the value of these shares declined resulting the sale of 300 shares at a loss. Claimants further contended that as a result of the above, they have suffered a loss for which the Respondents should be held liable.

Respondent Scott L. Mathis, who appeared Pro Se, maintained that Claimants were well aware and approved all transactions in their account. Respondent further maintained that the Claimants indicated that they were seeking growth in the stock market and that their account was opened as a cash/margin account. Respondent contended that Claimants fully agreed to the purchase of Triad on margin and received a full explanation of margin and its risks/rewards. Respondent further contended that when Triad began to decline in value, Claimants received several margin calls and he suggested that they sell Triad, buy Warrentech and send additional funds to cover the difference. Respondent maintained that after lengthy discussion, Claimants agreed to this plan. Respondent further maintained that Claimants are really complaining about unprofitable trades, and that he committed no wrongdoing, and therefore, he should not be held liable.

Respondent Gruntal & Co., Inc., through its representative and in-house counsel, Emilia M. De Meo, Esq., maintained that Claimants' investment objectives included growth, capital gains and income, and that they were explained the use of margin when they opened their margin account.

Respondent further maintained that Claimants agreed to follow Mathis' recommendation and authorized the sale of Triad and the purchase of Warrentech, and further that they received monthly account statements for eighteen months without once complaining. Respondent contended that Claimants are experienced investors and assumed the risks attendant to investing in the stock market, and therefore, it should not be held liable.

In their Reply to the Answer, Claimants Jackie R. and Nina F. Stewart reiterated the allegations contained in their Statement of Claim and maintained that Respondents Scott L. Mathis and Gruntal & Co., Inc. have totally denied their responsibility and should be held liable.

In their Response to the Claimants' Reply to the Answer, Respondents Gruntal & Co. objected to the filing of Claimants' Reply to the Answer, and maintained that the Reply was no more than an attempt to distract the arbitrator from the fact that Claimants' conduct demonstrates that their claims are meritless.

RELIEF REQUESTED

Claimants Jackie R. and Nina F. Stewart, requested \$9,723.78 in actual damages.

Respondents Gruntal & Co., Inc. and Scott L. Mathis, requested that the claims of the Claimants be dismissed.

OTHER ISSUES CONSIDERED & DECIDED

The Arbitrator did review and consider all documentation filed by the parties in the above captioned matter, including the Reply to the Answer and the Response to the Reply to the Answer.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, James B. Eichberg, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants Jackie R. and Nina F. Stewart, on October 24, 1995, and by the Respondent Scott L. Mathis, on January 11, 1996, and by the Respondent Gruntal & Co., Inc., on December 1, 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 Claimants Jackie R. and Nina F. Stewart, against the Respondents Scott L. Mathis and Gruntal & Co., Inc., are dismissed 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 Claimants Jackie R. and Nina F. Stewart, shall be retained by the NASD, Inc.

Affirmation

STATE OF *Colorado*

} SS:
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COUNTY OF *Denver*

I, *James B. Eichberg*, do hereby affirm upon my oath
as arbitrator that I am the individual described in and who executed this instrument,
which is my oath and award.

James B. Eichberg
Signature of Arbitrator

DATE OF DECISION: April 30, 1996