

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

Pasquale J. Nunzio and Carol M. Nunzio,
Trustees of the Pasquale J. and Carol M. Nunzio
Trust,

Claimant,

v.

No. 95-05587

Jeffrey S. Kramer and
Smith Barney, Incorporated,

Respondent.

REPRESENTATION OF PARTIES

The Claimants were represented by John R. Callahan, Esq. located in Scottsdale, AZ.

The Respondents were represented by Ann Parry, Esq. of Smith Barney located in New York, New York.

CASE INFORMATION

Statement of Claim was filed by Claimants Pasquale Nunzio as trustee of the Pasquale Nunzio and Carol Nunzio living trust ("Claimants") on or about November 27, 1995.

Claimants' Submission Agreement signed on November 22, 1995.

The Joint Statement of Answer was filed by Respondents on or about February 5, 1996.

Respondent Jeffrey Kramer's Submission Agreement was signed on February 6, 1996

Respondent Smith Barney Incorporated's Submission Agreement was signed on February 2, 1996 by Ann Parry, First Vice-President.

HEARING INFORMATION

Hearing dates were May 7, 1996 for two (2) sessions.

Hearing Location was Phoenix, AZ.

CASE SUMMARY

Claimants, alleged that they sustained losses in stock purchases made in Viewlogic Systems, Inc. and Capital Gaming International, Inc. Claimants further allege that these purchases were unsuitable and that misrepresentations were made in connection with the sale in order to induce the Claimants to purchase said stocks.

Respondents Denied every allegation of wrongdoing in the Statement of Claim and further deny liability to Claimants of any kind. The Respondents also asserted seven affirmative defenses including the doctrine of ratification and the doctrine of waiver.

RELIEF REQUESTED

Claimants requested that they recover judgment against Respondents in the amount of \$4,519.00 in compensatory damages, and there attorney fees costs and pre-judgment interest.

Respondent requested that the Statement of Claim be dismissed in its entirety and that Respondents be awarded their costs in defending the Claim.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that the Award in this matter may be executed by 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 originals remain on file with the NASD.

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 the Respondents, Jeffrey S. Kramer and Smith Barney, Inc. are jointly and severally liable for and shall pay to the Claimant \$3,200.00;

(2). That other than forum fees listed below, all other relief not specifically awarded is denied.

FORUM FEES

Pursuant to Section 43(c) of the Code, the following forum fees are assessed:

Two (2) hearing sessions x \$100.00 = \$200.00

Pursuant to Section 43(c) of the Code, the NASD shall retain the nonrefundable filing fee in the amount of \$50.00, and shall retain the hearing session deposit in the amount of \$100.00 previously paid to the NASD by the Claimant.

Additional forum fees in the amount of \$100.00 are assessed jointly and severally against Respondents. The NASD shall retain the \$100.00 member surcharge previously paid by Respondent Smith Barney, Inc. pursuant to Section 45 of the Code.

Fees are payable to the National Association of Securities Dealers, Inc.

CONCURRING ARBITRATORS

Dated:

Name:

May 16, 1996

/s/ Thomas F. Tobin

Thomas Tobin
Presiding Chair
Public Arbitrator

Date of Service by the NASD: June 14, 1996