

N.A.S.D. FINAL ORDER

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Ann F. Grossi

96-00959

Name of Respondent

Dillon Securities, Inc.
Reich & Co., Inc.
Thomas Dillon Removed for Bankruptcy
Carl Reich

REPRESENTATION

Claimant Ann F. Grossi appeared Pro Se.

Respondents Reich & Co., Inc. and Dillon Securities, Inc. did not enter appearances at the pre-hearing conference.

For respondent Carl Reich ("Reich") appeared Dan Brecher, Esq. of the law firm of Fischbein, Badillo, Wagner and Harding located in New York, New York.

Respondent Thomas Dillon ("Dillon") filed a bankruptcy petition with the United States Bankruptcy Court for the Eastern District of Washington on October 10, 1996, thereby automatically staying further proceedings against him.

CASE INFORMATION

Statement of Claim filed: March 4, 1996.

Amended Statement of Claim filed: April 29, 1996.

Claimant's Submission Agreements signed on: December 28, 1995 and April 23, 1996.

Notice of Entry of Order permanently staying this arbitration against Carl Reich was filed by respondent Reich on: July 18, 1996.

Statement of Answer filed by respondent Dillon on: June 19, 1996.

Respondent Dillon's Submission Agreement signed on: June 19, 1996.

Respondents Dillon Securities, Inc. and Reich & Co. did not file Statements of Answer nor properly executed Submission Agreements.

HEARING INFORMATION

Pre-Hearing Conference: December 12, 1996 - One Session

The hearing was conducted telephonically.

OTHER INFORMATION

The dispute was between a public customer and two member firms of the NASD and two associated persons of those member firms.

At the pre-hearing conference, respondent Reich made a motion to dismiss the claims against him and requested enforcement of the order staying this proceeding against him. But before the arbitrator, Evonne Tolbert, made a ruling she withdrew from the case. The presiding arbitrator over this matter, Joseph Russell, was provided with all documents filed by the parties. Those documents included the parties' respective positions as to the discussions and decisions of Ms. Tolbert during the pre-hearing conference. As is customary, no audio recording was made of the pre-hearing conference.

RELIEF REQUESTED

Claimant requested \$17,187.11 in actual damages plus interest at 8% from 1984 to the date of the award. Claimant also requested costs, punitive damages and whatever other damages are allowed at law.

Respondent Reich requested that the claims be dismissed in their entirety.

ISSUES CONSIDERED & DECIDED

The arbitrator made the following rulings concerning respondents Dillon Securities, Inc. and Reich & Co., Inc. which did not file Statements of Answer nor a Submission Agreements, and which also failed to appear at the pre-hearing conference conducted in this matter:

1. Pursuant to Rule 10101 of the NASD Code of Arbitration Procedure (the "Code"), the arbitrator found subject matter jurisdiction over this entire controversy.
2. The arbitrator found that respondents Dillon Securities, Inc. and Reich & Co., Inc. were members of the NASD at the time this controversy arose. Consequently, personal jurisdiction over these respondents existed pursuant to Rule 10301 of the Code.

3. In addition, in accordance with Rules 10310, 10315 and 10318 of the Code, the arbitrator found that NASD Regulation provided these respondents with "due notice" of this matter by regular and certified mail. He therefore determined to proceed with the hearing without Respondent, whose absence was unexcused.

FINAL ORDER

The arbitrator determined that the Order of the Supreme Court, New York County, dated July 1, 1996 has the effect of permanently staying this proceeding against Carl Reich both individually and otherwise.

This claim was filed on March 4, 1996. Therefore, the six year period for arbitration eligibility under Rule 10304 of the NASD Code of Arbitration Procedure (the "Code") commenced on March 4, 1990. Claimant's purchases of the securities to which her claim relates took place over a five-week period from mid-July through mid-August of the year 1984. Because those purchases were made well in advance of March 4, 1990, the arbitrator decided that this entire matter is ineligible for arbitration under Rule 10304 of the Code.

FORUM FEES

Pursuant to Rule 10332(c) of the Code of Arbitration Procedure, the arbitrator has determined that NASD Regulation shall retain the \$100.00 non-refundable filing fee previously deposited by claimant and has assessed the following forum fees:

One pre-hearing session x \$300.00

Claimant Ann Grossi is found to be and hereby liable for the sum of \$300.00 representing the total amount of forum fees assessed. Claimant previously deposited \$400.00 with NASD Regulation Inc. Therefore, nothing is owed to NASD Regulation by the claimant.

ARBITRATOR'S SIGNATURE

I, Joseph B. Russell, Esq., do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein, and who executed this instrument which is my award.


Joseph B. Russell, Esq.
Public Chairperson

Date of Decision: May 29, 1997