

NASD AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Stephen and Patsi McClaran

Claimants

NASD Arbitration

v.

No. 96-01227

Stratton Oakmont, Inc.,
James T. Kelly,
John Squeri and
Jordan R. Belfort

Respondents

REPRESENTATION OF PARTIES

Stephen and Patsi McClaran ("**Claimants**") was represented by Ralph Gant, Esq., New York City, New York.

Stratton Oakmont, Inc., James T. Kelly, John Squeri and Jordan R. Belfort ("**Respondents**") were represented by Franklin D. Ormsten, Esq., Ormsten & Evangelist, New York City, New York.

CASE INFORMATION

The Statement of Claim was filed on or about March 18, 1996. Claimants Submission Agreement was signed on March 14, 1996.

The Joint Statement of Answer was filed on or about May 2, 1996. Respondents Submission Agreements were signed on the following dates:

Stratton Oakmont, Inc.	-	April 18, 1996;
James T. Kelly	-	April 22, 1996;
John Squeri	-	April 19, 1996;
Jordan R. Belfort	-	not received.

HEARING INFORMATION

The hearing was held on September 11-12, 1996 in Honolulu, Hawaii for a total of three sessions.

CASE SUMMARY

Claimants alleged that the Respondents utilized a sales scheme in which Respondents first recommended a well known stock to the Claimants, shortly after which Respondents pressured the Claimants to purchase very volatile high risk stocks. Claimants further alleged that the Respondents made misrepresentations regarding the stocks which were eventually sold to the Claimants and failed to disclose fully the risks involved with the stocks. Additionally, the Claimants alleged that the Respondents failed to execute trades after repeated requests by the Claimants, conducted unauthorized trading in the Claimants account, manipulated the markets in which the Claimants held stocks and breached their fiduciary duty to the Claimants. Claimants specifically alleged that Stratton Oakmont failed to supervise either James T. Kelly or John Squeri and that the Respondents conduct constituted violations of Section 10(b) of the Securities Exchange Act of 1934.

Respondent denied the allegations set forth in the Statement of Claim. Respondents specifically argued that the Claimants were made aware of the nature and the risk that would be associated with the stocks that were offered for sale and were in fact fully capable of understanding the discussions and documentation that was provided in relation to the sales. Respondents further argued that the Claimants failed to mitigate their damages.

RELIEF REQUESTED

Claimants requested an award in the amount of \$61,200 in actual damages, modified at hearing to \$55,671.66. Additionally, Claimants requested punitive damages, interest at 9% per annum from September 1, 1994, costs and attorneys' fees.

Respondent requested that the claims asserted against it be denied in their entirety.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that a handwritten, signed Award may be entered. The parties have agreed to receive conformed copies of the award while the original remains on file with the NASD.

AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents Stratton Oakmont, Inc., John Squeri and James T. Kelly, jointly and severally, are liable and shall pay to Claimants \$16,593.75 in compensatory damages.

2. Respondents Stratton Oakmont, Inc., John Squeri and James T. Kelly, jointly and severally, are liable and shall pay to Claimants interest at the rate of 9% per annum from December 30, 1994 to the date the award is satisfied.
3. Respondents Stratton Oakmont, Inc., John Squeri and James T. Kelly, jointly and severally, are liable and shall pay to Claimants attorneys' fees in the amount of \$ 5,531.25. *See Mastrobuono v. Shearson Lehman Hutton Inc.* (___US___, 115 S. Ct. ___); *Mulder v. Donaldson. Luftkin and Jenrette*, ___, N.Y.L.J. 10-10-96; *Merrill Lynch, Pierce, Fenner & Smith, Inc. v. Driessens*, ___, N.Y.L.J. 10-24-96.
4. Claimants request for punitive damages is denied.
5. Claimants request that the matter be referred to the NASD, the S.E.C. and the State of Hawaii for regulatory action is denied.

FORUM FEES

Forum fees are calculated at the rate of \$500 per hearing session and \$300 for each pre-hearing conference, if any. There were 3 sessions x \$500 = \$1,500 in forum fees. Pursuant to §43(b) of the NASD Code of Arbitration Procedure (the "Code"), a hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with an arbitrator, which lasts four (4) hours or less. Pursuant to § 43(c) of the Code of Arbitration Procedure, the forum fees are assessed jointly and severally against respondents Stratton Oakmont, Inc., James T. Kelly & John Squeri.

Total Fees

3 Hearing Sessions @ \$500.00 =	\$1,500.00
Total	<u>\$1,500.00</u>

Respondents Stratton Oakmont, Inc.,

John Squeri and James T. Kelly,

joint and several share	\$1,500.00
-------------------------	------------

Respondent's Balance	<u>\$1,500.00</u>
----------------------	--------------------------

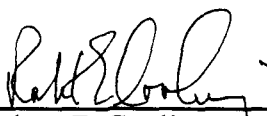
Pursuant to §43(c) of the Code, the NASD shall **retain** the non-refundable filing fee in the amount of \$150 and shall **refund** the hearing session deposit in the amount of \$500 previously deposited with the NASD by the Claimant Stephen and Patsi McClaran.

Pursuant to §45 of the Code, the NASD shall retain the member surcharge fee in the amount of \$300 due or owing from Stratton Oakmont, Inc.

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

Dated:

Steven M. Gelber, Esq.
Public Arbitrator, Presiding Chair


Robert E. Cooling
Public Arbitrator

November 12, 1996

David Hartley
Industry Arbitrator

INDIVIDUAL ACKNOWLEDGEMENT

STATE OF HAWAII } ss.
City and County of Honolulu }

On this 12th day of November, 19 96, before me personally appeared

* * * * Robert E. Cooling * * * *

to me known to be the person (s) described in and who executed the foregoing instrument, and acknowledged that he

 executed the same as his free act and deed.



Notary Public, First Judicial Circuit, State of Hawaii

My Commission Expires 07-17-98

L.S.