

**AWARD**

**NASD REGULATION, INC.**

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In the Matter of the Arbitration Between

**Name of Claimants**

Gregory F. & Kathleen K. Blessing

vs.

Case No.

96-01444

**Name of Respondent**

Steven Morgan

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**REPRESENTATION**

Claimants, Gregory F. Blessing and Kathleen K. Blessing ("Claimants") were not represented by counsel and are located in Willington, Connecticut.

Respondent, Steven Morgan ("Respondent"), was not represented by counsel and is located in Brielle, New Jersey.

**CASE INFORMATION**

Statement of Claim was filed on March 27, 1996.

Claimants' Submission Agreement was signed on March 29, 1996.

Statement of Answer was filed by Respondent on August 1, 1996.

Respondent's Submission Agreement was signed on August 1, 1996.

**HEARING INFORMATION**

Hearing Date/Sessions: December 9, 1996 - 2 sessions

Hearing Location: NASD Regulation, Inc. offices located at 260 Franklin Street, Boston, Massachusetts.

**CASE SUMMARY**

Mr. Blessing alleges that in 1990 he was a 31 years old father of two young children, earning \$48,000.00 and had been unemployed for a while. Claimant also alleges that his wife was unemployed. Claimant alleges that he and his wife borrowed \$28,000.00 through refinance of their mortgage in order to become a partner in a company where he was an employee but this deal fell through. Claimant also alleges that his wife inherited \$25,000 and they placed these two sums in conservative mutual funds.

Claimant contends that Respondent who was an employee of Hibbard Brown contacted him in the fall of 1990 and used aggressive sales tactics and advised Claimant to purchase unsuitable, highly speculative and high risk stocks. Claimant also contends that Respondent failed to provide him with significant

material information such as Hibbard Brown's or Robert Brennan's involvement in the stock and the company's operating losses, etc. Claimant further contends that within the first year, Respondent had invested the entire \$25,000 in high risk stocks such as Trans Atlantic Video, First National Realty, Highline Industries, Inc., etc.

Claimant maintains that it was not until November 3, 1992 when he received a questionnaire from the SEC concerning CCC Franchising that he became aware of the fraud and that Robert Brennan was allegedly manipulating the stock prices through Hibbard Brown.

Respondent denies liability to Claimants and contends that he fulfilled all of his duties to Claimants as their broker. Respondent contends that he provided Claimant, Mr. Blessing, prospectus during his initial visit at Respondent's office. Respondent also contends that he owes no fiduciary duty to Claimants because Claimants directed all activities in their accounts. Respondents further contends that he cannot be held legally responsible for the alleged fraudulent acts of Hibbard Brown's principal or Robert Brennan. Respondent states that he was unaware of Mr. Brennan's involvement in the stocks.

#### **RELIEF REQUESTED**

Claimants request an award of \$22,861.00 in compensatory damages and \$7045.00 in interest at a rate of 5% for the past five and one half years.

Respondent requests that the claim be dismissed on the theory of laches.

#### **AWARD**

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

1. All claims asserted by Claimants against Respondent Morgan are dismissed in their entirety.

#### **FORUM FEES**

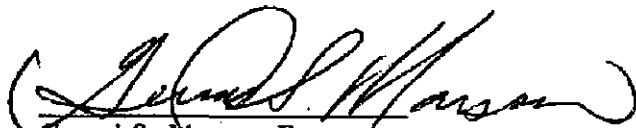
Pursuant to Rule 10332(K) of the *Code of Arbitration Procedure*, the following Forum Fees are assessed.

Non-refundable Filing Fee:	\$100.00
Hearing Session Fees:	\$600.00 ( 2 session @ \$300.00 per session)
Total Fees:	\$700.00

1. Claimants are assessed \$350.00. Claimants previously paid \$400.00 and are entitled to a \$50.00 refund.
2. Respondent is assessed \$350.00 in forum fees. Respondent shall satisfy the fees assessed by reimbursing Claimant \$50.00 and by remitting the balance \$300.00 to the NASD Regulation, Inc.

Fees are payable to the NASD Regulation, Inc.

Sole Public Arbitrator



Gerard S. Marsan, Esq.

Date of Decision: January 21, 1997