

**N.A.S.D. AWARD**

**NASD REGULATION, INC., OFFICE OF DISPUTE RESOLUTION**

In the Matter of the Arbitration Between

Name of Claimants

Randall C. Monroe & Michelle R. Monroe

96-01701

Name of Respondents

Eric Sikes;  
Joseph Roberts & Company Inc.

**REPRESENTATION**

For Claimant: Randall C. Monroe and Michelle R. Monroe ("Monroe") were represented by Stephen A. Kolodziej, Esq. of Clark & DeGrand, located in Chicago, Illinois.

For Respondents: Joseph Roberts & Company, Inc. ("Roberts") did not appear. Eric Sikes ("Sikes") was represented by Gregory A. Friedman, Esq. of Friedman & Holtz, P.C., located in Chicago, Illinois.

**CASE INFORMATION**

Statement of Claim filed: April 19, 1996.

Claimants' Submission Agreement signed on: April 17, 1996.

Supplement to Statement of Claim filed: May 15, 1996.

Statement of Answer filed by Respondent Roberts on: July 19, 1996.

Respondent Robert's Submission Agreement signed on: July 8, 1996 by Robert B. DeMarco, Jr., President, Joseph Roberts & Co., Inc.

Statement of Answer filed by Respondent Sikes on: June 27, 1996.

Respondent Sikes' Submission Agreement signed on: June 26, 1996.

Respondent Sikes' Motion to Dismiss Supplement to Statement of Claim filed: June 26, 1996.

Claimants' Response to Respondent's Motion to Dismiss Supplement to the Statement of Claim filed: July 16, 1997.

**HEARING INFORMATION**

Pre-Hearing Conference: February 18, 1997 for One (1) session before the Full Panel.

Hearing Dates/Sessions: May 20, 1997 for Two (2) sessions; and  
May 21, 1997 for One (1) session.

Hearing Location: Chicago, Illinois.

**CASE SUMMARY**

Claimants alleged that Respondent Sikes, while employed by or acting as an agent for Roberts, misrepresented or omitted material information regarding certain common stocks Sikes recommended the purchase or sale of to the Claimants. Claimants relied upon the information to their detriment. Sikes also encouraged the transactions in order to obtain sales commissions.

Respondent Roberts denied the material allegations of the Statement of Claim, alleging that the trades were consistent with the Claimants' investment objectives, the Monroes approved all trades before they were made, and that it maintained supervisory procedures to routinely monitor personnel.

Respondent Sikes denied the material allegations of the Monroes' claim, asserting that all trades were the Claimants' decision after Sikes merely provided a recommendation and information supplied by Roberts. In addition, the Monroes never expressed any dissatisfaction with Sikes while he was employed by Roberts.

**RELIEF REQUESTED**

Claimants requested entry of an award for \$66,625.00 plus commissions earned by Respondents.

Respondent Roberts requested that the Statement of Claim and request for damages be denied. Sikes requested a finding in his favor and against Claimants.

**OTHER ISSUES CONSIDERED & DECIDED**

By letter dated November 20, 1996, counsel for Respondent Roberts withdrew as counsel. Respondent Roberts did not appear at hearing on May 20, 1997. Pursuant to Section 10318 of the Code of Arbitration Procedure, the panel determined that the Respondent had received due notice of the hearing and that the arbitration would continue.

At the in-person pre-hearing conference of February 18, 1997, the Claimants presented a Motion to Default

Respondent Joseph Roberts & Co., Inc. At that time, the panel determined that they would take the Motion under advisement. At hearing, the Motion was asserted by the Claimants. Pursuant to Section 10303 of the Code of Arbitration Procedure, the panel determined that the Motion was denied and that Claimant should proceed to hearing.

Pursuant to Section 10324 of the Code of Arbitration Procedure, the panel determined that sanctions were required because of Respondent Joseph Roberts & Co., Inc.'s failure to comply with discovery orders. Therefore, Respondent Joseph Roberts & Co., Inc. is liable for and shall pay to Claimants Randall C. Monroe and Michelle R. Monroe the sum of \$5,000.00 in attorneys' fees as sanctions for the failure to comply with discovery orders of the panel.

The parties at hearing have agreed that the Award in this matter may be executed in 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, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. The Claims asserted by Claimants Randall C. Monroe and Michelle R. Monroe are hereby dismissed with prejudice and denied in the entirety;
2. The parties shall bear their own costs of arbitration, including attorneys' fees, except for those specifically enumerated herein; and
3. Any relief not specifically awarded is hereby denied.

#### **OTHER COSTS**

Respondent Joseph Roberts & Co., Inc. is liable for and shall pay to the NASD Regulation, Inc., Office of Dispute Resolution the member surcharge in the sum of \$300.00 as required by Section 10333 of the Code of Arbitration Procedure.

#### **FORUM FEES**

Pursuant to Section 10332(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed: One (1) pre-hearing conference before the full panel x \$500.00 per session = \$500.00; Three (3) hearing sessions x \$500.00 per session = \$1,500.00; Total forum fees = \$2,000.00.

The NASD Regulation, Inc., Office of Dispute Resolution shall retain the \$150.00 non-refundable claim filing fee and shall retain the \$500.00 hearing session deposit previously deposited by the Claimants, Randall C. Monroe and Michelle R. Monroe as forum fees. In addition, Claimants Randall C. Monroe and Michelle R. Monroe are liable for and shall pay to the NASD Regulation, Inc., Office of Dispute Resolution the sum of \$1,500.00 as additional forum fees.

Concurring Arbitrators' Signatures

Name

Date

/s/ Robert S. Sugarman, Esq.

July 9, 1997

Robert S. Sugarman, Esq.

Public Arbitrator

Chairperson

/s/ Harry L. Sheehy

July 10, 1997

Harry L. Sheehy

Public Arbitrator

/s/ Frank F. Foy

July 9, 1997

Frank F. Foy

Industry Arbitrator