

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Michelle Vanottie and Adam Burakowski

96-02662

Name of Respondent

Stratton Oakmont, Inc.

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on June 21, 1996, claimants Michelle Vanottie (formerly Michelle Burakowski) and Adam Burakowski ("claimants"), who appeared Pro Se, alleged that respondent Stratton Oakmont, Inc. ("respondent"), through its representative, Ms. Plocki, misrepresented its reputation and experience and the risks associated with certain recommended stocks and warrants. Claimants further alleged that at the time of the events, Michelle Vanottie was 24 years old and made \$18,000.00 a year while her father, Adam Burakowski, a technician, supported a family on his \$60,000.00 a year salary. Claimants also alleged that although Mr. Burakowski made it clear that he wanted only safe investments, Ms. Plocki recommended a series of unsuitable securities. Claimants contended that Ms. Plocki initially sold them shares of Dr. Pepper 7Up Companies, Inc. which was profitable. Claimants further contended that the subsequent trades in United Leisure Corporation, Master Glaziers Karate Intl., Inc. were a disaster and that Ms. Plocki was not truthful in her presentation of these stocks to claimants. Claimants also contended that they also purchased shares of Dualstar and that they made some money on that trade. Claimants asserted that they later learned that respondent has a history of regulatory problems and that had they known of this, the trades never would have taken place. Claimants further asserted that as a result of the above, they have suffered a loss for which the respondent should be held liable.

Respondent Stratton Oakmont, Inc. through its representative and in-house counsel, Eniko Bazsa, Esq., maintained that the recommendations made by the registered representatives were reasonably based and suitable in light of the customers' stated investment objectives. Respondent further maintained that based on the information provided the claimants, there can be no dispute as to the suitability of the stocks bought for their account. Respondent also

maintained that claimants cannot claim that they were unaware of the risk of investing, in fact, claimants are experienced, affluent and attentive investors. Respondents contended that claimants indicated at the time they opened the account that they had an annual income of \$100,000.00, a market portfolio of \$100,000.00 and a net worth of \$500,000.00. Respondents further contended that the stated investment objectives were growth and speculation. Respondents also contended that claimants have not set forth any specific, factual and concrete terms or any specific rule violations of the NASD. Respondent asserted that as a result of the above, it should not be held liable.

RELIEF REQUESTED

Claimants Michelle Vanottie and Adam Burakouski requested \$9,812.61 in actual damages plus interest, attorney's fees, and costs.

Respondent Stratton Oakmont, Inc. requested that the claims be dismissed in their entirety with costs assessed against claimants.

OTHER ISSUES CONSIDERED AND DECIDED

The arbitrator considered and reviewed all documentation submitted by the parties concerning respondent's motion to dismiss and claimants' request to file a response to respondent's Statement of Answer. The arbitrator denied respondent's motion to dismiss and granted the claimants' request.

AWARD

Pursuant to Section 10302 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Philip M. Giordano, Esq., was selected to review the matter in controversy between the parties set forth in submissions to arbitration signed by the claimant on June 15, 1996, and by respondent on July 15, 1996.

And, the Arbitrator, having considered the proof of the parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Respondent Stratton Oakmont, Inc. is liable and shall pay to the claimants Michelle Vanottie and Adam Burakouski \$9,812.61 in actual damages.
2. Respondent Stratton Oakmont, Inc. is liable and shall pay to the claimants Michelle Vanottie and Adam Burakouski simple interest at the rate of 12% per annum from the date of the award to the date of payment of the award.
3. Respondent Stratton Oakmont, Inc. is liable and shall pay to the claimants Michelle Vanottie and Adam Burakouski \$1,000.00 as reimbursement of attorney's fees, as requested by the claimants in the Statement of Claim, for services provided to them by Attorney Thomas P. Willcutts.

4. The parties shall bear their respective costs.
5. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the claimants shall be retained by the NASD, Inc. Respondent Stratton Oakmont, Inc. is liable and shall pay to the claimants Michelle Vanottie and Adam Burakowski \$150.00 as reimbursement of the filing fee.
6. All other relief requests are denied.

AFFIRMATION

I, Philip M. Giordano, Esq., do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.



Signature of Arbitrator

DATE OF DECISION January 14, 1997