

NASD AWARD

NASD Regulation, Inc. Office of Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimants

Constance Sandorff
William Sandorff

96-03544

Name of Respondents

Morehead Investment Advisors, Inc.
De Rand/Pennington/Bass Inc.
George E. Brooks

REPRESENTATION

Claimants Constance and William Sandorff ("Claimants") were represented by William B.L. Little, Esq., of Little & Little, PLLC, Raleigh, NC.

Respondents George E. Brooks ("Brooks") and Morehead Investment Advisors, Inc. ("Morehead") were represented by in this proceeding by George E. Brooks.

Respondent De Rand/Pennington/Bass, Inc., ("DPB") did not appear at the arbitration.

CASE INFORMATION

Claimants Constance and William Sandorff signed Submission Agreement on: August 15, 1996
Statement of Claim filed: August 15, 1996
Amended Statement of Claim filed: June 17, 1997

Respondents Brooks and Morehead signed Submission Agreement on: May 16, 1997
Respondents Brooks and Morehead filed Statement of Answer on: May 15, 1997

Respondent DPB did not file any responsive pleadings nor did DPB file a Uniform Submission Agreement.

HEARING INFORMATION

Pre-Hearing Conference:

March 3, 1997 - one session (one arbitrator)

Hearing Dates - Sessions

January 7, 1998 - two sessions
January 8, 1998 - two sessions

Hearing Location:

Raleigh Marriott Crabtree Valley, 4500 Marriot Drive, Raleigh, NC, 27612

CASE SUMMARY

Claimants alleged, among other things, that Claimant Constance Sandorff ("Ms. Sandorff") met Brooks in 1984, four years after the death of her husband. Claimants alleged that Ms. Sandorff told Brooks that she was an unsophisticated investor who had roughly \$300,000.00 to invest. Claimants alleged that Ms. Sandorff explained to Brooks that she did not have the ability or the education to work, and needed approximately \$3,000.00 of monthly income to support herself and her family. Claimants alleged that Ms. Sandorff opened an account with Brooks at Robinson-Humphrey, transferred her account with Brooks to Pinnacle Group, which later became successor in interest to Legg Mason, further moving her account as Brooks changed firms three additional times. Claimants alleged that she instructed Brooks "that she wanted safe, insured and liquid investments which could provide her with dependable monthly income." Claimants alleged that Ms. Sandorff was induced by Brooks into higher risk investments for which she did not comprehend their financial repercussion possibilities. Claimants alleged that Brooks began trading in an aggressive fashion, elevating up to churning of higher risk securities which she did not authorize or understand. Claimants asserted that Brooks continued in the same aggressive, speculative style in attempting to provide a monthly income flow through short term trading in equity markets. In all, Claimants alleged that Brooks lost a total of at least \$78,000 but not greater than \$500,000 of her investment portfolios. Claimant William Sandorff ("Mr. Sandorff") alleged that Brooks enticed him to invest \$5,000 in a stock of a corporation that went bankrupt shortly thereafter but later reorganized leaving Mr. Sandorff with a selling value less than \$300.

Respondents Brooks and Morehead denied all allegations of wrongdoing alleged by Claimants. Respondents Brooks and Morehead specifically maintained that: Claimants failed to comply with the six year statute of limitations; that Claimants authorized and understood Brooks' aggressive trading style; that Ms. Sandorff did not suffer an actual total loss in light of Ms. Sandorff's gains, losses, and withdrawals; and Claimants assumed the risk of the loss that they now complain.

Respondent DPB did not file an answer.

RELIEF REQUESTED

Claimants requested damages including, but limited to, compensatory damages plus punitive damages in an amount in excess of \$78,000 but less than \$500,000, rescission, plus interest of eight percent plus all costs and reasonable attorney's fees.

Respondents Brooks and Morehead requested that all claims against them be denied and that Claimants assumed the risk of loss of which they complain.

Respondent DPB made no requests.

OTHER ISSUES CONSIDERED & DECIDED

The parties 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.

Upon review of the file and the representations made by Claimants, the undersigned arbitrators have determined that Respondent DPB has been properly served with the Statement of Claim pursuant to rule 10302 and Rule 10314 of the NASD Code of Arbitration Procedure (the "Code"). The undersigned arbitrators have also determined that Respondent DPB has received due notice of the hearing as required under Rule 10315 of the Code and that arbitration of the matter would proceed pursuant to Rule 10318 of the Code.

AWARD

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

1. That Respondents George E. Brooks, Morehead Investment Advisors, Inc., and De Rand/Pennington/Bass, Inc., are jointly and severally liable to Claimant Constance Sandorff and shall pay to Ms. Sandorff the sum of \$35,000 plus post judgment interest to accrue from the date the award is received by the Respondents until the date the award is paid at the rate of seven percent (7%) simple interest per annum.
2. That Claimant William Sandorff's claims against Respondents are denied in their entirety.
3. That Respondents George E. Brooks, Morehead Investment Advisors, Inc., and De Rand/Pennington/Bass, Inc. shall be jointly and severally liable to Claimant Constance Sandorff in the amount of \$11,666.67 for attorney's fees. The arbitrators authority for awarding attorney's fees is based on Violations of the "Fraudulent and Prohibited Practices" provisions of North Carolina Investment Advisors Act, Chapter 78c-8(a) of the General Statutes of North Carolina.
4. That Claimants Constance and William Sandorffs' claim for punitive damages are denied in their entirety.
5. That forum fees shall be in conformity with the section below.
6. Any and all other claims not specifically addressed herein are denied in their entirety.

FORUM FEES

Pursuant to Rule 10332(c) of the Code, the following Forum Fees are assessed.

(1 pre hearing conference session with chairperson x \$300) + (4 hearing sessions x \$750) = \$3300

Claimants paid deposit of \$750.

Morehead Investment Advisors, Inc. owes its member surcharge fee of \$350.

Forum Fees Assessed Against: 50 % Claimants : 50 % Respondents

Claimants are assessed forum fees in the amount of \$1650. Claimants are entitled to offset this amount

with their hearing deposit of \$750. The total amount due from Claimants in forum fees is \$900.


Respondents George E. Brooks, Morehead Investment Advisors, and DeRand/Pennington/Bass, Inc. are jointly and severally assessed forum fees in the amount of \$1650. Respondent Morehead has an assessment of \$350 for its member surcharge fee due and owing.

Fees are payable to the NASD Regulation, Inc. Office of Dispute Resolution.

DATE AWARD SIGNED

Concurring Arbitrators' Signatures

2/27/98


Arne Hovdesven, Esq. - Chairperson
Public Arbitrator

Thomas W. Steed, Esq. - Panelist
Public Arbitrator

David P. McDuffee/ Panelist
Industry Arbitrator

Date Award Served by NASD Regulation:

March 10, 1998

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DATE AWARD SIGNED

Concurring Arbitrators' Signatures

Arne Hovdesven, Esq. - Chairperson
Public Arbitrator

2/29/98

Thomas W. Steed

Thomas W. Steed, Esq. - Panelist
Public Arbitrator

David P. McDuffee/ Panelist
Industry Arbitrator

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DATE AWARD SIGNED

Concurring Arbitrators' Signatures

Arne Hovdesven, Esq. - Chairperson
Public Arbitrator

Thomas W. Steed, Esq. - Panelist
Public Arbitrator

March 7, 1998

David P. McDuffee
David P. McDuffee/ Panelist
Industry Arbitrator

Date Award Served by NASD Regulation:

March 10, 1998