

N.A.S.D. REGULATION, INC.
AWARD

NASD Regulation, Inc. Office of Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

Robert M. Hagan

96-03707

Name of Respondent

Greenway Capital Corp., now known as,
Cortlandt Capital Corporation

REPRESENTATION

For Claimant: Robert M. Hagan ("Hagan") was represented by Thomas C. Wagner, Esq. of Chattman, Gaines & Stern, located in Cleveland, Ohio.

For Respondent: Greenway Capital Corp., now know as Cortlandt Capital Corporation ("Greenway"), did not appear.

CASE INFORMATION

Statement of Claim filed: August 27, 1996.

Claimant's Submission Agreement signed on: August 19, 1996.

Statement of Answer filed by Respondent Greenway on: November 29, 1996.

Respondent Greenway's Submission Agreement signed on: October 30, 1996

HEARING INFORMATION

Pre-Hearing Conference: None Held.

Hearing Date/Sessions: March 19, 1998 for One (1) session.

Hearing Location: Cleveland, Ohio.

CASE SUMMARY

Claimant alleged that Respondent Greenway engaged in and assisted its employee or agent in acts of unauthorized trading, unsuitable trading given the Hagan's investment objectives and investment experience, and misrepresentation of facts material to Hagan's investment decisions. These actions involved common stocks and margin accounts.

Respondent denied the material allegations of the Statement of Claim, alleging numerous affirmative defenses, including:

1. Hagan ratified all transactions in his account;
2. Any losses are the result of market losses or Claimant's own negligence and therefore, Greenway is not responsible;
3. Hagan is barred from bringing this claim because of the doctrines of estoppel and laches; and
4. Claimant has failed to state a claim for unsuitability;

RELIEF REQUESTED

Claimant requested an award for actual damages of \$51,500.00; lost interest of \$1,000.00; punitive damages of \$157,500.00; costs; and reasonable attorneys' fees.

Respondent requested that the statement of Claim be dismissed in its entirety.

OTHER ISSUES CONSIDERED & DECIDED

J.B. Oxford & Company and Joseph Anthony Ricci were named respondents to this claim in arbitration. Prior to hearing, Claimant settled with both of these respondents.

Respondent Greenway did not appear at the hearing. Upon review, the panel determined that Greenway had received due notice of the hearing as required pursuant to Rule 10318 of the Code of Arbitration Procedure and that the hearing would proceed in the respondent's absence.

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. Respondent Greenway Capital Corp., now known as Cortlandt Capital Corporation, is liable for and shall pay to Claimant Robert M. Hagan the sum of \$31,959.00, plus interest at the rate of 10% per annum, accruing from March 13, 1998 until the sum is paid in full;
2. The parties shall bear their own costs of arbitration, including attorneys' fees, except for those specifically enumerated herein;
3. Any relief not specifically awarded is hereby denied.

OTHER COSTS

Pursuant to Rule 10333 of the Code, J.B. Oxford & Company has paid to NASD Regulation, Inc. the \$350.00 member surcharge previously invoiced.

Pursuant to Rule 10333 of the Code, Respondent Greenway Capital Corp., now known as Cortlandt Capital Corporation, shall pay to NASD Regulation, Inc. the \$350.00 past due member surcharge previously invoiced.

In addition, Respondent Greenway Capital Corp., now known as Cortlandt Capital Corporation, is liable for and shall pay to NASD Regulation, Inc. the sum of \$750.00 for the postponement fee assessed May 8, 1997.

FORUM FEES

Pursuant to Rule 10332[c] of the Code of Arbitration Procedure, the following Forum Fees are assessed: One (1) hearing session x \$750.00 per session = \$750.00.

NASD Regulation, Inc. shall retain the \$200.00 claim filing fee and, as forum fees, the \$750.00 hearing session deposit previously paid by Claimant Robert M. Hagan. Respondent Greenway Capital Corp., now known as Cortlandt Capital Corporation, is liable for and shall pay to Claimant Robert M. Hagan the sum of \$950.00 as reimbursement of the fees paid.

Concurring Arbitrators' Signatures
Name

Date

/s/ Kevin R. McDermott, Esq.
Kevin R. McDermott, Esq.
Public Arbitrator
Chairperson

May 14, 1998

/s/ Elmer G. Cowan, Esq.
Elmer G. Cowan, Esq.
Public Arbitrator

May 20, 1998

/s/ Henry Ott-Hansen
Henry Ott-Hansen
Industry Arbitrator

May 18, 1998

For ODR Use Only/Date of Decision: May 21, 1998