

## **AWARD**

NASD Regulation, Inc. Office of Dispute Resolution

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In the Matter of the Arbitration Between

Name of Claimant

Nancy Watkins and Gregory Lee VanWert

and

96-05038

Name of Respondent

Westonka Investments, Inc.

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### **REPRESENTATION OF PARTIES**

Nancy Watkins and Gregory Lee VanWert ("Claimants") were represented by Richard I. Diamond, Esq., Diamond, Liszt & Grady, P.A., Minneapolis, Minnesota.

Westonka Investments, Inc. ("Respondent") did not appear at the hearing.

### **CASE INFORMATION**

The Statement of Claim was filed on or about November 12, 1996. Submission Agreement of Claimant Nancy Watkins and Gregory Lee VanWert was signed on September 19, 1996.

Respondent Westonka Investments, Inc. did not file a responsive pleading in this matter.

### **HEARING INFORMATION**

The hearing was held on Monday, August 4, 1997 in Minneapolis, Minnesota for a total of one (1) session.

### **CASE SUMMARY**

Claimants alleged that Daniel Sigfrid opened a margin account at Westonka Investments, Inc. without adequate explanation of the potential risks involved. Claimants also alleged that they believe that they did not sign a margin agreement. It was further alleged that Daniel Sigfrid recommended the purchase of unsuitable securities for them in light of their stated investment objectives and experience. In addition, Claimants alleged that Daniel Sigfrid ignored or refused to follow their instructions to cease trading on margin.

Respondent Westonka Investments, Inc. did not file a responsive pleading in this matter.

### **RELIEF REQUESTED**

Claimants requested an award in their favor in the amount not less than \$42,557.32; damages for the loss of investment opportunity, growth and interest; reasonable attorneys' fees; punitive damages; and for such other and further relief as the arbitration panel deem just and reasonable. At the hearing Claimants reduced the amount requested to \$20,000.

### **OTHER ISSUES CONSIDERED & DECIDED**

Upon review of the file and the representations made on behalf of the Claimants, the undersigned arbitrators have determined that Respondent Westonka Investments, Inc. had 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 Westonka Investments, Inc. had 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.

Southwest Securities, Inc. was named as a Respondent in this matter. On or about February 26, 1997, Southwest Securities, Inc. filed a Motion to Dismiss and Answer. After considering the pleadings filed in this matter, including but not limited to the Motion to Dismiss and response thereto, the undersigned arbitrators **granted** the Motion to Dismiss.

Daniel Sigfrid was named as Respondent in this matter. Upon agreement of the parties, the claims asserted against Daniel Sigfrid were dismissed without prejudice.

### **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 Westonka Investments, Inc. shall be and hereby is liable for and shall pay to the Claimants Nancy Watkins and Gregory Lee VanWert the sum of \$20,465.01 (**twenty thousand four hundred sixty five dollars and one cent**).
2. Respondent Westonka Investments, Inc. shall be and hereby is liable for and shall pay to the Claimants Nancy Watkins and Gregory Lee VanWert the sum of \$520 (**five hundred twenty dollars**) as reimbursement for filing fees and hearing session deposits.

3. Each party shall bear its own costs, expenses and fees incurred in this matter not specifically enumerated herein.

#### FORUM FEES

Forum fees are calculated at the rate of \$400 per hearing session and \$300 for each pre-hearing conference, if any. There was one (1) session x \$400 = \$400 in forum fees. Pursuant to Rule 10332(b) a hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with an arbitrator, which lasts four (4) hours or less.

Pursuant to Rule 10332(c) of the NASD Code of Arbitration Procedure, the NASD Regulation, Inc. Office of Dispute Resolution shall **retain** the non-refundable filing fee in the amount of \$120 and shall **retain** as forum fees the hearing session deposit in the amount of \$400 previously deposited with the NASD Regulation, Inc. Office of Dispute Resolution by the Claimant Nancy Watkins and Gregory Lee VanWert.

Pursuant to Rule 10333 of the NASD Code of Arbitration Procedure, the NASD Regulation, Inc. Office of Dispute Resolution shall **retain** the non-refundable member surcharge in the amount of \$200 previously paid by Southwest Securities, Inc. Fees are payable to the NASD Regulation, Inc. Office of Dispute Resolution.

Dated:

/s/ Thomas J. Gmeinder, Esq.  
Thomas J. Gmeinder, Esq.  
Public Arbitrator, Presiding Chair

August 4, 1997

/s/ George A. Beck, Esq.  
George A. Beck, Esq.  
Public Arbitrator

August 4, 1997

/s/ Lee T. Beske  
Lee T. Beske  
Industry Arbitrator

August 4, 1997