

N.A.S.D. AWARD**NASD Regulation, Inc. Office of Dispute Resolution****In the Matter of the Arbitration Between****Names of Claimants**

Jenda Miller & Shirley Miller, JTWROS
Shirley Miller

96-05708

Names of Respondents

Sovereign Equity Management Corp.
Steven J. Labrasciano
Alex Rivera

REPRESENTATION

For Claimants: Vincent A. O'Brien, Esq. of the Law Office of Faugl & O'Brien, P.A., Tampa, Florida.

For Respondents: Thomas W. Hands of Sovereign Equity Management Corp., Boca Raton, Florida.

CASE INFORMATION

Statement of Claim filed: December 24, 1996.

First Amended Statement of Facts filed on: April 21, 1997.

Claimants' Notice of Dismissal of Respondent Alex Rivera and Motion to Expunge Alex Rivera from the Case filed on: April 21, 1997.

Claimants' Notice of Dismissal of Respondent Michael Ricci With Prejudice filed on: July 21, 1997.

Claimant Shirley A. Miller's Submission Agreement signed on: December 10, 1996.

Claimant Jenda Miller's Submission Agreement signed on: December 11, 1996.

Joint Statement of Answer filed by Respondents Sovereign Equity Management Corp. ("Sovereign") and Steven J. Labrasciano ("Labrasciano") on: March 25, 1997.

Respondent Sovereign Equity Management Corp.'s Submission Agreement signed on: March 24, 1997.

Respondents Alex Rivera and Steven J. Labrasciano did not file executed Submission Agreements.

Respondent Alex Rivera did not file a Statement of Answer.

HEARING INFORMATION

Telephonic prehearing conferences lasting a total of two sessions were conducted with the arbitration panel on August 19, 1997 and October 3, 1997.

The evidentiary hearing was conducted on May 20, 1998 in Tampa, Florida lasting a total of two sessions.

CASE SUMMARY

Claimants alleged that the Respondents recommended and purchased unsuitable, high risk stocks, that they made material misrepresentations, that they made unauthorized purchases, and that they abused their discretionary authority.

Respondents Sovereign and Labrasciano denied each and every allegation contained in the Statement of Claim and alleged that the Claimants are educated and experienced investors and that every purchase was approved by the Claimants. The Respondents Sovereign and Labrasciano further alleged that they complied with all state and federal laws, rules and regulations, and that they acted in accordance with the rules of the NASD.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$52,813.00 plus interest, costs, attorney's fees and punitive damages.

Respondents Sovereign and Labrasciano requested that the Statement of Claim be dismissed in its entirety.

OTHER ISSUES CONSIDERED & DECIDED

The party present at the hearing 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 party present at the hearing agreed to receive conformed copies of the Award while the originals remain on file with NASD Regulation, Inc.

The Respondents did not appear at the final hearing. However, upon review of the file and the representations made on behalf of the Claimants, the undersigned arbitrators determined that the Respondents have 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 the Respondents 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.

Respondents Alex Rivera and Steven J. Labrasciano did not file with the NASD Regulation, Inc. Office of Dispute Resolution properly executed submissions to arbitration but are required to submit to arbitration pursuant to Rule 10301 of the Code and Respondent Steven J. Labrasciano having answered the claim is bound by the determination of the arbitration panel on all issues submitted.

Prior to the commencement of the first hearing session, the arbitration panel was informed that the Claimants were withdrawing all claims against Respondent Alex Rivera.

In its First Amended Statement of Facts, Claimants asserted a claim against Michael Ricci. There being no indication that Mr. Ricci was served with the First Amended Statement of Facts by the Claimants

pursuant to Rule 10328 of the Code of Arbitration Procedure and having received the Claimants' Notice of Dismissal of Respondent Michael Ricci With Prejudice, the arbitration panel did not reach any determination with regard to Mr. Ricci.

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. The Respondents Sovereign and Labrasciano are found liable, jointly and severally, and shall pay to Claimant Shirley Miller, individually, compensatory damages in the amount of \$35,948.45 plus interest at the prevailing statutory rate in Florida from May 31, 1996 to the date the award is paid.
2. All claims by the Claimants Jenda Miller and Shirley Miller, JTWROS, against the Respondents are dismissed.
3. The Respondents Sovereign and Labrasciano are found liable, jointly and severally, and shall pay to the Claimants attorney's fees in an amount to be determined by a court of competent jurisdiction.
4. The Respondents Sovereign and Labrasciano are found liable, jointly and severally, and shall pay to the Claimants \$500.00 representing reimbursement of the hearing session deposit previously paid by the Claimants.
5. The Claimants' request for punitive damages is denied.
6. The Motion to Expunge all references to this arbitration proceeding from Respondent Alex Rivera's CRD record is granted.

OTHER FEES

Pursuant to Rule 10332 of the Code, the Claimants have paid to NASD Regulation, Inc. the \$150.00 claim filing fee.

NASD Regulation, Inc. shall retain the \$500.00 hearing session deposit previously paid by the Claimants.

Pursuant to Rule 10333 of the Code, Respondent Sovereign Equity Management Corp. has paid to NASD Regulation, Inc. the \$300.00 member surcharge previously invoiced.

FORUM FEES

Pursuant to Rule 10332(c) of the Code, the panel has assessed forum fees against the Respondents Sovereign and Labrasciano, jointly and severally, in the amount of \$2,000.00 (two prehearing conferences with the panel x \$500.00 plus two hearing sessions x \$500.00) less the \$500.00 previously deposited by the Claimants in partial satisfaction thereof leaving a balance due in the sum of \$1,500.00.

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

Concurring Arbitrators' Signatures:**Name****Public/Industry**/s/Howard J. Adler, Esq.
Chairperson**Public**/s/Kenneth J. Zahn**Industry**/s/Edward J. Adrian**Public****8/26/98****Date of Decision:** _____