

AWARD

NASD Regulation, Inc. Office of Dispute Resolution

In the Matter of the Arbitration Between

Robert and Cathy Morris,

Claimants,

v.

No. 96-05744

Nick Briganti, and
Cressida Capital, Inc. f/k/a/
Norfolk Securities Corp.,

Respondents.

REPRESENTATION OF PARTIES

Claimants Robert and Cathy Morris ("Claimants") were represented Anthony V. Trogan, Esq. of Weisman, Trogan, Young & Schloss, P.C. located in Bingham Farms, Michigan.

Respondents Nick Briganti and Cressida Capital, Inc. f/k/a Norfolk Securities Corp. ("Respondents") did not appear at the hearing and were unrepresented.

CASE INFORMATION

The Statement of Claim was filed on or about December 19, 1996.

Claimants' Joint Submission Agreement was signed on December 26, 1996.

Respondents did not file a Statement of Answer or Submission Agreement.

HEARING INFORMATION

The hearing was held on January 5, 1998 for one (1) session in Southfield, Michigan.

CASE SUMMARY

Claimants alleged that at the time Claimants opened their account with Respondents in late December 1995 they disclosed to Respondents all of the circumstances concerning themselves,

including their employment, assets, income, health, and other factors including their legitimate conservative investment objectives. Claimants contended that notwithstanding the foregoing, Respondents undertook a course of conduct with Claimants which included the following: recommendation of highly volatile and speculative, high risk penny shares; sale of securities to Claimants based upon asserted "inside" information; sale of securities to Claimants without adequate risk disclosure; recommendation and purchase for Claimants of securities which were not suitable for them given their circumstances; sale of securities to Claimants based upon promises and guarantees that securities would be sold in the event the security lost 10% of its acquisition value while knowing that such stop loss orders could not be placed for the securities in question; failing to honor promises and guarantees that securities in the account would be sold in the event they lost 10% of their acquisition value; sale of securities to Claimants based upon unreasonable projections of value; and sale of securities to Claimants without any research or investigation concerning the underlying value and prospects of the issues involved. Claimants asserted that as the result of the foregoing, Claimants lost all their investment with Respondents which total approximately \$32,000.

RELIEF REQUESTED

Claimants requested an award of \$32,000 as out-of-pocket loss; interest at 12%; costs; attorney fees; exemplary and punitive damages; additional damages; and recession of all transactions.

OTHER ISSUES CONSIDERED & DECIDED

Pursuant to an order entered by the United States Bankruptcy Court upon application of the Securities Investor Protection Corporation under the Securities Investor Protection Act, all matters concerning Cressida Capital, Inc. f/k/a Norfolk Securities Corp. were indefinitely stayed. Accordingly, this matter proceeded only with respect to Claimants and Respondent Nick Briganti.

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

Respondent Nick Briganti did not file with NASD Regulation, Inc. Office of Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to §10301 of the Code and is bound by the determination of the arbitration panel on all issues submitted.

The parties who appeared 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 parties have agreed to receive conformed copies of the award while the original(s) remain on file with NASD Regulation, Inc. Office of Dispute Resolution.

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) That Respondent Nick Briganti is liable for and shall pay to Claimants Robert and Cathy Morris actual damages in the amount of Thirty Six Thousand Two Hundred and Fifty Dollars and No Cents (\$36,250.00), plus interest (at 10% per annum for 17 months) in the amount of One Thousand Five Hundred Ten Dollars and No Cents (\$1,510.00);
- (2) That Respondent Nick Briganti is liable for and shall pay to Claimants Robert and Cathy Morris NASD filing fees and miscellaneous costs in the amount of Five Hundred Ninety Five Dollars and No Cents (\$595.00);
- (3) That Respondent Nick Briganti is liable for and shall pay to Claimants Robert and Cathy Morris legal fees in the amount of Two Thousand Five Hundred Dollars and No Cents (\$2,500.00). The panel finds that an award of attorney fees in this matter is allowed under Michigan law;
- (4) That Respondent Nick Briganti is liable for and shall pay to Claimants Robert and Cathy Morris exemplary damages (actual plus interest) in the amount of Forty Thousand Three Hundred Eight Five Dollars and No Cents (\$40,385.00). The panel finds that an award of exemplary damages is allowed under Michigan law; and
- (5) That any relief not specifically enumerated is hereby denied with prejudice.

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) hearing session x \$400 = \$400 in forum fees. Total forum fees = \$400. Pursuant to §10332(b) of the Code, 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 §10332(c) of the Code, NASD Regulation, Inc. Office of Dispute Resolution shall retain the non-refundable filing fee in the amount of \$120 and shall refund the hearing session deposit in the amount of \$400 previously deposited by the Claimants.

Pursuant to §10332(c) of the Code, Respondent Briganti is liable for and shall pay forum fees in the amount of \$400.

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

Concurring Arbitrators' Signatures:

/s/ John F. Burns, Esq.

John F. Burns, Esq.

Chairperson

Public Arbitrator

January 21, 1998

Dated:

/s/ Leonard R. Present

Leonard R. Present

Panelist

Public Arbitrator

January 28, 1998

Dated:

/s/ Diane Catherine Tietmeyer

Diane Catherine Tietmeyer

Panelist

Industry Arbitrator

January 21, 1998

Dated:

For NASD Regulation use only:

Date award served on parties:

January 28, 1998