

AWARD

NASD REGULATION, INC., OFFICE OF DISPUTE RESOLUTION

In the matter of the Arbitration Between

Name of Claimants

James M. Kane and Marilyn Kane

v.

Arbitration No.
96-05772

Name of Respondents

Cruttendon Roth, Inc.
Tibor Komoroczy

REPRESENTATION

For Claimants:

Jeffrey L. Gaffney, Esq.
Law Offices of Jeffrey L. Gaffney
San Diego, California

For Respondent Cruttendon Roth, Inc.:

John R. Loftus, Esq.
Keesal, Young & Logan
Long Beach, California

CASE INFORMATION

Statement of Claim filed:

December 20, 1996

Claimants' Submission Agreement signed:

September 11, 1996

Statement of Answer filed by
Respondent Cruttendon Roth, Inc.:

February 7, 1997

Respondent Cruttendon Roth, Inc.'s
Submission Agreement signed:

January 17, 1997

HEARING INFORMATION

Pre-Hearing Conference Date/Sessions: October 23, 1997 (1 session)

Hearing Dates/Sessions: November 10, 1997 (2 sessions)
November 11, 1997 (1 session)

Hearing Location: Los Angeles, California

CASE SUMMARY

Claimants' alleged Respondents committed fraud, intentional misrepresentation, negligent misrepresentation, breach of fiduciary duty, breach of the implied covenant of good faith and fair dealing, violations of NYSE Rules and NASD Conduct Rules and professional malpractice in connection with numerous unauthorized transactions, improperly generated commissions and mark-ups in Claimants' account.

Respondent denied Claimants' claims in their entirety and asserted that none of the transactions in Claimants' account were unauthorized and that Claimants were experienced investors interested in speculative, high risk investment opportunities.

RELIEF REQUESTED

Claimants sought compensatory damages in the amount of \$98,926.00, lost opportunity costs, reimbursement of commissions, mark-ups and costs, pre-award and post-award interest at seven percent, punitive damages, costs and attorney's fees.

Respondent sought dismissal of Claimants' Statement of Claim in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

The parties have agreed that the Award in this matter may be executed in either 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 remains on file with the NASD Regulation, Inc., Office of Dispute Resolution.

Respondent Tibor Komoroczy filed for bankruptcy on December 11, 1996, thereby staying this arbitration against him.

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 Cruttendon Roth, Inc. is liable to and shall pay Claimants the sum of \$50,000.00 in compensatory damages.
2. Claimants' claim for lost opportunity costs is denied.
3. Claimants' claim for reimbursement of commissions, mark-ups and costs is denied.
4. Claimants' claim for pre-award and post-award interest is denied.
5. Claimants' claim for punitive damages is denied.
6. Claimants' claim for costs and attorney's fees is denied.

FORUM FEES

Pursuant to Rule 10332 of the Code of Arbitration Procedure, the following forum fees are assessed against Claimants and Respondent Cruttendon Roth, Inc.:

One (1) Pre-Hearing Conference @ \$300.00/Session	= \$300.00
<u>Three (3) Hearing Sessions @ \$500.00/Session</u>	<u>= \$1,500.00</u>
Total Forum Fees Assessed	= \$1,800.00
 Claimants' One-Half Share	 = \$900.00
<u>Claimants' Credit for Hearing Session Deposit</u>	<u>= (\$500.00)</u>
Claimants' Balance Due	= \$400.00
 <u>Respondent Cruttendon Roth Inc.'s One-Half Share</u>	 <u>= \$900.00</u>
Respondent Cruttendon Roth Inc.'s Balance Due	= \$900.00

-- Fees are payable to NASD Regulation, Inc.

ARBITRATORS

<u>Name</u>	<u>Public/Industry</u>
Chet Olsen, Esq.	Public Arbitrator
Donald L. Lisle	Industry Arbitrator
Pamela Kay Nemeth	Public Arbitrator

Concurring Arbitrators' Signatures

Chet Olsen, Esq.

Donald L. Lisle

Pamela Kay Nemeth

Date of Service: December 15, 1997

ARBITRATORS

<u>Name</u>	<u>Public/Industry</u>
Chet Olsen, Esq.	Public Arbitrator
Donald L. Lisle	Industry Arbitrator
Pamela Kay Nemeth	Public Arbitrator

Concurring Arbitrators' Signatures



Chet Olsen, Esq.

Donald L. Lisle

Pamela Kay Nemeth


Date of Service: 15 December 1997

ARBITRATORS

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Donald L. Lisle	Industry Arbitrator
Pamela Kay Nemeth	Public Arbitrator

Concurring Arbitrators' Signatures

Chet Olsen, Esq.



Donald L. Lisle

Pamela Kay Nemeth

Date of Service: 15 December 1997

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Pamela Kay Nemeth	Public Arbitrator

Concurring Arbitrators' Signatures

Chet Olsen, Esq.

Donald L. Lisle

Pamela Nemeth 12/10/97
Pamela Kay Nemeth

Date of Service: 15 December 1997