

**AWARD**  
**NASD Regulation, Inc.**

In the Matter of Arbitration Between

Bert O. Bayless,  
Claimant,

and

No. 98-0049

Sovereign Equity Management Corp. and  
Vincent James Albanese.

Respondents.

**REPRESENTATION OF PARTIES**

Claimant, Bert O. Bayless, ("Claimant"), was represented by Stuart Evan Glass, Esquire of Weiner Glass & Reed located in Dallas.

Respondent, Sovereign Equities Management Corporation ("Sovereign") was unrepresented.

Respondent Vincent James Albanese ("Albanese") was represented by David A. Gehn, Esquire of Bachner & Gehn located in New York, New York.

**CASE INFORMATION**

Claimant Bert O. Bayless' Claim was filed on or about January 7, 1998. Claimant Bert O. Bayless' Uniform Submission Agreement was signed on September 29, 1997.

Respondent Vincent James Albanese's Answer was filed on or about March 12, 1998. The NASD has no record of Respondent Vincent James Albanese's Submission Agreement.

The NASD has no record of Respondent Sovereign Equities Management Corporation's Submission Agreement or Answer.

**HEARING INFORMATION**

Telephonic pre-hearings with the full panel of arbitrators were held on October 13 and October 14 of 1998 for one (1) session each. The hearing was held on February 22, 1999 for one (1) session in Dallas, Texas. There were a total of three (3) full panel hearings.

### **CASE SUMMARY**

Claimant Bert O. Bayless, an elderly man suffering from Alzheimer's disease, alleged that the Respondents Sovereign Equity Management Corporation and its agent Vincent J. Albanese violated the National Association of Securities Dealers ("NASD") Rules of Fair Practice by failing to require that investment objectives match the investor, misrepresenting material facts concerning investment objectives, failing to disclose material facts concerning investments made, failure to supervise, and breached their fiduciary duty owed to the investor. Claimant further alleged that his IRA funds were placed in highly speculative holdings including Advanced Voice Technologies, Harmon Holdings, Inc., Home Shopping Network, Rotary Power International, Inc. and U.S. Pawn, Inc. causing him to lose much of his investment.

Respondent Albanese denied any wrongdoing as alleged in the Claimant's Statement of Claim. Respondent Albanese asserts that Claimant demonstrated a clear awareness of his securities account and stock market sophistication and approved each and every transaction in his account. According to Respondent Albanese's Answer the Claimant is trying to reverse his investment that resulted in losses.

### **RELIEF REQUESTED**

Claimant Bert O. Bayless requested an award for monetary damages in the amount of \$32, 616.73, interest, treble damages, punitive damages, attorneys fees and expenses.

Respondent Albanese requested that the claims asserted against him be dismissed in their entirety and that he be awarded his costs and attorney fees.

### **OTHER ISSUES CONSIDERED AND DECIDED**

At the commencement of the hearing in this case, the Claimant announced a full settlement with Respondent Vincent James Albanese. Therefor, the panel made no further rulings as to Respondent Vincent James Albanese.

Upon review of the file and the representations made on behalf of Claimant, Bert O. Bayless, the undersigned Arbitrators have determined that Respondent, Sovereign Equities Management Corporation, has been properly served with the Statement of

Claim pursuant to Rules 10302 and 10314 of the NASD Code of Arbitration Procedure ("the Code.") The undersigned Arbitrators have also determined that Respondent, Sovereign Equities Management Corporation, did receive due notice of the hearing as required under Rule 10318 of the Code.

Respondent, Sovereign Equities Management Corporation, 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 Rule 10301 of the NASD Code of Arbitration Procedure and is bound by the determination of the arbitration panel on all issues submitted.

The parties present at the hearing have 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 the 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 the Respondent Sovereign Equities Management Corporation is liable for and shall pay Claimant Bert O. Bayless thirty three thousand seven hundred nine dollars and nineteen cents (\$33,709.19) and 10% ten percent interest from February 28, 1996 until the award is paid in full;
  - a)
2. That the Respondent Sovereign Equities Corporation is liable for and shall pay Claimant Bert O. Bayless five thousand four hundred dollars (\$5,400.00) in attorneys' fees. In deciding to award attorneys' fees the panel considered the briefs and documents submitted by counsel, oral argument of counsel, and common and statutory law of Texas including Section 16 of the Texas Civil Practice and Remedy Code and found support for an award of attorneys' fees;
  - a)
3. That other than forum fees, which are addressed below, all other claims and requests for relief not specifically awarded here are, and each of them, hereby denied with prejudice.

### FORUM FEES

Forum fees are calculated at the rate of \$500.00 per hearing session. There were two (2) full panel pre-hearing conferences and there was one (1) full panel hearing sessions (3 x \$500.00 = \$1,500.00 in forum fees. Pursuant to Rule 10332(b) of the NASD Code of Arbitration Procedure (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 Rule 10332(c) of the Code, Claimant, Bert O. Bayless has paid to the NASD Regulation, Inc., Office of Dispute Resolution, the non-refundable filing fee of \$150.00 and has also paid the hearing session deposit of \$500. 00. Respondent Sovereign Equities Management Corporation is liable for the forum fees in this matter and shall pay the sum of \$1,500.00 to NASD Regulation, Inc., Office of Dispute Resolution.

The NASD shall reimburse Claimant Bert O. Bayless for his \$500.00 hearing session deposit.

#### OTHER FEES

Pursuant to Rule 10333 of the Code, Respondent, Sovereign Equities Management Corporation shall pay to the NASD Regulation, Inc., Office of Dispute Resolution, the \$1,000.00 past due member surcharge previously invoiced.

Pursuant to Rule 1033 of the Code, Respondent, Sovereign Equities Management Corporation, shall pay to the NASD Regulation, Inc., Office of Dispute Resolution, the \$2,100.00 past due member process fee(s) previously invoiced.

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

#### Concurring Arbitrators' Signatures:

/s/ Anne B. Kimball

May 21, 1999

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Ann B. Kimball  
Chairperson  
Public Arbitrator

\_\_\_\_\_  
Date

/s/ Arvel G. McCulloch

May 18, 1999

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Arvel G. McCulloch  
Panelist  
Public Arbitrator

\_\_\_\_\_  
Date

NASD Regulation, Inc., Office of Dispute Resolution  
Arbitration No. 98-0049; Award Page 5 of 4

/s/ Simeon R. Trotter

Simeon R. Trotter  
Panelist  
Industry Arbitrator

Ma 20, 1999

Date