

AWARD
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between

Name of Claimant

Sandi Goetze

and

99-03025
Minneapolis, Minnesota

Name of Respondents

Miller, Johnson & Kuehn, Incorporated
William Goude

REPRESENTATION OF PARTIES

Sandi Goetze ("Claimant") was represented by Donald E. Grossfield, Esq., The Investor's Law Group, Rochester, New York.

Miller, Johnson & Kuehn, Incorporated ("Respondent MJK") was represented by Daniel R. Kelly, Esq. And Geoffrey J. Jarpe, Esq., Maun & Simon PLC, Minneapolis, Minnesota.

William Goude ("Respondent Goude") was represented by Jan Stuurmans, Esq., Minneapolis, Minnesota.

CASE INFORMATION

The Statement of Claim was filed on or about July 2, 1999. Submission Agreement of Claimant Sandi Goetze was undated.

Statement of Answer was filed by Respondent Miller, Johnson & Kuehn, Incorporated on or about October 4, 1999. Submission Agreement of Respondent Miller, Johnson & Kuehn, Incorporated was signed on September 30, 1999 by Jerome W. McClees.

Statement of Answer was filed by Respondent William Goude on or about December 1, 1999. Submission Agreement of Respondent William Goude was undated.

CASE SUMMARY

Claimant alleged that Respondents negligently mismanaged her account and engaged in a fraudulent plan to use the funds and credit of the Claimant for the exclusive purpose of earning commissions and markups for the Respondents. It was further alleged that the actions of Respondents constituted

violations of the Rules of Fair Practice of the National Association of Securities Dealers and the New York Stock Exchange by:

- A. Knowingly and intentionally misrepresented the value of the shares held in Claimant's account for the purpose of maintaining the Claimant's confidence in them to continue to generate fees and commissions by buying and selling securities on behalf of Claimant, and
- B. Buying and selling unsuitable securities in Claimant's account principally for the purpose of earning profits for themselves.

Respondent MJK denied the allegations set forth in the Statement of Claim. It was specifically stated that throughout the relationship between the parties, MJK provided communications, including reports of execution of orders and statements of account to Claimant to the addresses she provided. Respondent MJK stated that Claimant never objected in writing or otherwise to any communication sent by it. It was also stated that Respondent MJK relied on and acted in accordance with Claimant's stated investment objectives, experience and net worth.

Respondent Goude denied the allegations set forth in the Statement of Claim.

RELIEF REQUESTED

Claimant, Sandi Goetze, demanded relief against the Respondents jointly and severally, in the total amount of \$1,256,000 plus interest as follows:

- 1. \$350,000 plus interest as compensation for direct portfolio losses;
- 2. The return of commissions earned by Respondents as a result of the complained of fraudulent and negligent management of the account in the currently estimated amount of \$30,000 and the return of margin interest in the amount of \$26,000;
- 3. Punitive damages in the amount of \$700,000 attributable to the intentional and fraudulent conduct set forth in the Statement of Claim;
- 4. Reasonable costs, attorneys' fees, disbursements, and forum fees in the amount of \$150,000;
- 5. And for such other and further relief as the panel may deem appropriate.

Respondent MJK requested that the relief requested in the Statement of Claim be denied in its entirety and dismissed with prejudice. In addition, Respondent MJK requested an award to it in an amount equal to its costs and expenses associated with defending this claim, including but not limited to, attorneys' fees.

Respondent Goude requested that the case against him be dismissed.

OTHER ISSUES CONSIDERED & DECIDED

At the conclusion of Claimant's case in chief, Respondents asserted a Motion to Dismiss. After considering the pleadings, the evidence presented and the arguments of the parties, the undersigned arbitrators **grant** the motion.

The parties 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 Dispute Resolution, Inc. (the "NASD").

AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing and the post-hearing submissions, if any, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents' Motion to Dismiss shall be and hereby is granted.
2. That to the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto are denied with prejudice.
3. Other than the Forum Fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including but not limited to attorneys fees.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$500.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm is Miller, Johnson & Kuehn, Incorporated.

Member surcharge	= \$2,500.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$4,500.00

Forum Fees and Assessments

The Arbitration Panel assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session(s) with Panel x \$1,200.00	= \$1,200.00
Pre-hearing conference(s): March 28, 2000 1 session	
Three (3) Hearing sessions x \$1,200.00	= \$3,600.00
Hearing Date(s): August 9, 2000 1 session	
October 25, 2000 2 sessions	
Total Forum Fees	= \$4,800.00

The Arbitration Panel has assessed \$2,400.00 of the forum fees to Sandi Goetze.

The Arbitration Panel has assessed \$2,400.00 of the forum fees jointly and severally to Miller, Johnson & Kuehn, Incorporated and William Goude.

Fee Summary

Claimant, Sandi Goetze, shall be and hereby is liable for:

Initial Filing Fee	= \$ 500.00
<u>Forum Fees</u>	= \$2,400.00
Total Fees	= \$2,900.00
<u>Less payments</u>	= \$1,700.00
Balance Due NASD Dispute Resolution, Inc.	= \$1,200.00

Respondent, Miller, Johnson & Kuehn, Incorporated, shall be and hereby is liable for:

Member Fees	= \$7,600.00
<u>Forum Fees</u>	= \$ 0.00
Total Fees	= \$7,600.00
<u>Less payments</u>	= \$4,658.33
Balance Due NASD Dispute Resolution, Inc.	= \$2,941.67

Respondents, Miller, Johnson & Kuehn, Incorporated and William Goude, shall be and hereby are jointly and severally liable for:

<u>Forum Fees</u>	= \$2,400.00
Balance Due NASD Dispute Resolution, Inc.	= \$2,400.00

All balances are due to NASD Dispute Resolution, Inc.

Dated:

/s/ James A. Lundberg
James A. Lundberg, Esq.
Public Arbitrator, Presiding Chair

November 22, 2000

/s/ Wendy A. Sacha
Wendy A. Sacha
Public Arbitrator

November 22, 2000

/s/ Rolf V. Aronsen
Rolf V. Aronsen, Esq.
Industry Arbitrator

November 22, 2000

11/22/00 WED 13:11 FAX

NASD REGULATION

007

NASD Dispute Resolution, Inc.
Arbitration No. 99-03025
Award Page 5 of 5

Respondents, Miller, Johnson & Kuehn, Incorporated and William Goude, shall be and hereby
are jointly and severally liable for:

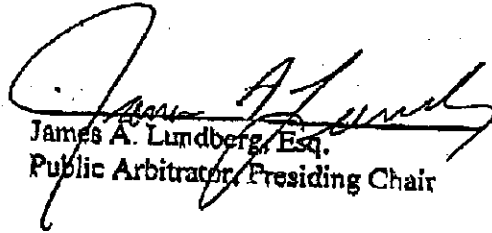
Forum Fees

Balance Due NASD Dispute Resolution, Inc.

= \$2,400.00

= \$2,400.00

All balances are due to NASD Dispute Resolution, Inc.


James A. Lundberg, Esq.
Public Arbitrator, Presiding Chair

Dated:

11/22/2000

Wendy A. Sacha
Public Arbitrator

Rolf V. Aronsen, Esq.
Industry Arbitrator

11/22/00 WED 13:24 FAX

NASD REGULATION

007

NASD Dispute Resolution, Inc.

Arbitration No. 99-03025

Award Page 5 of 5

Respondents, Miller, Johnson & Kuehn, Incorporated and William Goude, shall be and hereby
are jointly and severally liable for:

Forum Fees

= \$2,400.00

Balance Due NASD Dispute Resolution, Inc.

= \$2,400.00

All balances are due to NASD Dispute Resolution, Inc.

Dated:

James A. Lundberg, Esq.

Public Arbitrator, Presiding Chair

Wendy A. Sacha

Wendy A. Sacha

Public Arbitrator

11/22/00

Rolf V. Aronsen, Esq.

Industry Arbitrator

NASD Dispute Resolution, Inc.

Arbitration No. 99-03025

Award Page 5 of 5

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Forum Fees

Balance Due NASD Dispute Resolution, Inc.

= \$2,400.00

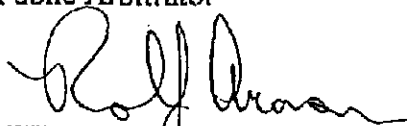
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All balances are due to NASD Dispute Resolution, Inc.

Dated:

James A. Lundberg, Esq.
Public Arbitrator, Presiding Chair

Wendy A. Sacha
Public Arbitrator



Rolf V. Aronsen, Esq.
Industry Arbitrator

11-22-00