

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between

Name of Claimant

Madeline Andrews

Case No. 00-03724

Hearing Site: Boca Raton, Florida

Names of Respondents

Cybervest Securities, Inc.
William Pang Chien and Garth Reeves

REPRESENTATION OF PARTIES

For Madeline Andrews ("Andrews") hereinafter referred to as "Claimant": Eric Norstedt, Esq., Fort Lauderdale, Florida.

For Cybervest Securities, Inc. ("Cybervest") and William Pang Chien ("Chien"), hereinafter collectively referred to as "Respondents": William Pang Chien, President and CEO, Cybervest Securities, Inc., Fort Lauderdale, Florida.

Respondent Garth Reeves ("Reeves") did not appear.

CASE INFORMATION

Statement of Claim filed on or about: August 25, 2000.

Claimant signed the Uniform Submission Agreement: August 10, 2000.

Statement of Answer filed by Respondents Cybervest and Chien on or about: November 10, 2000.

Respondent Cybervest signed the Uniform Submission Agreement: October 28, 2000.

Respondent Chien signed the Uniform Submission Agreement: March 15, 2001.

Respondent Reeves did not file an executed Uniform Submission Agreement or Statement of Answer.

CASE SUMMARY

Claimant asserted the following: 1) Respondents violated Chapter 517 Florida Statutes; 2) Respondent Cybervest is liable for the acts of its agents; 3) Respondents breached their fiduciary duty to Claimant; 4) Respondent Cybervest was negligent in the supervision of its employees; 5) Respondents breached NASD Rules of Fair Practice; 6) Respondents committed fraud by making misrepresentations to Claimant on which Claimant relied; 7) Respondents were negligent and grossly negligent by not ensuring compliance with applicable securities laws, rules, regulations, policies as well as with their own internal compliance policies and procedures; 8) Respondents have been unjustly enriched by the commissions generated from Claimant's account; and 9) Respondents churned Claimant's account. The

causes of action relate to: 1) the lost opportunity which occurred due to the recommendation and sale of her pre-existing ICOS stock; and 2) the purchase and sale of shares of stock of AOL, APPNET, F5 NETWORKS, LUCENT, MYPOINTS, RAZORFISH, SCHERING-PLOUGH, USINTERNETWORKING.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following: 1) Respondents did not make any representation or warranty to Claimant regarding the profitability of her account; 2) Claimant's alleged damages are related to a final margin sell-out which was done in accordance with, and in compliance with, all applicable rules and regulations; and 3) Claimant's claims are unsupported by the facts.

RELIEF REQUESTED

Claimant requested compensatory damages of \$12,916.00, plus interest, punitive damages, attorney's fees, the costs of this proceeding and such other relief deemed just and proper.

Respondent requested that all claims against them be dismissed.

OTHER ISSUES CONSIDERED AND DECIDED

The parties have agreed that a handwritten, signed Award may be entered.

On December 6, 2000, Claimant notified NASD Dispute Resolution, Inc. that she had withdrawn her claims against Respondent Reeves.

AWARD

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

During the evidentiary hearing, Respondent Chien admitted, under cross examination, to the churning of Claimant's account.

Respondents Cybervest and Chien are liable, jointly and severally, and shall pay to Claimant the sum of \$4,231.75 as compensatory damages representing the loss on her investments, including the commissions paid and margin costs.

Respondents Cybervest and Chien are liable, jointly and severally, and shall pay to Claimant the sum of \$4,281.08 representing her statutory interest loss.

Respondents Cybervest and Chien are liable, jointly and severally, and shall pay to Claimant the sum of \$6,800.00 as her lost opportunity costs with regard to the ICOS stock.

Respondents Cybervest and Chien are liable, jointly and severally, and shall pay to Claimant prejudgment interest at the rate of 10% per annum from January 1, 2000 through December 31, 2000 and at the rate of 11% per annum from January 1, 2001 until the date of payment of the Award.

The arbitrator bases his Award on Miley v. Oppenheimer & Co., 637 F.2d 318, 327 (5th Cir. Unit A 1981), Florida Statutes Section 55.03(1), Florida Statutes Section 215.422(3)(a), Florida Statutes Section 337.141(3), Florida Statutes Section 687.01 and Galigher v. Jones, 129 U.S. 193 (U.S. Sp. Ct. 1899).

Respondents Cybervest and Chien are liable, jointly and severally, and shall pay to Claimant the sum of \$30,000.00 as punitive damages. The Award for punitive damages is based upon Mastrobuono v. Shearson Lehman Hutton, Inc., 115 S. Ct 1212 (1995), Florida Statutes 517.211 and the following acts of Respondents Cybervest and Chien: fraud, deceit, churning, unsuitability of investments, placing Claimant in a dangerous margin account and urging the sale of Claimant's ICOS stock. Each of the above listed actions was done in a blatant and egregious manner by Respondents Cybervest and Chien.

Claimant shall recover reasonable attorney's fees from Respondents Cybervest and Chien, jointly and severally, to the extent permitted by Florida Statutes Chapter 517, and as determined by a court of competent jurisdiction.

Any and all other requests for relief not specifically addressed herein are denied.

FEES

Pursuant to the NASD Code of Arbitration Procedure (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:

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| Initial claim filing fee | = \$125.00 |
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Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated person at the time of the events giving rise to the dispute. In this matter, the member firm is a party.

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| Member surcharge | = \$400.00 |
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Adjournment Fees

No adjournments were requested during these proceedings.

Forum Fees and Assessments

The arbitrator has the authority to assess 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, that lasts four (4) hours or less. Fees associated with these proceedings are:

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| Three (3) Pre-hearing sessions with a single arbitrator x \$450.00 | = \$1,350.00 |
| Pre-hearing conferences: | |
| March 16, 2001 | 1 session |
| March 23, 2001 | 1 session |
| May 21, 2001 | 1 session |
| Two (2) Hearing sessions x \$450.000 | = \$900.00 |
| Hearing Date: June 28, 2001 | 2 sessions |

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| Total Forum Fees | = \$2,250.00 |
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The arbitrator has assessed \$900.00 of the forum fees to Claimant.

The arbitrator has assessed \$1,350.00 of the forum fees jointly and severally to Respondents Cybervest and Chien.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services including, but not limited to, additional copies of arbitrator awards beyond those provided without charge, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred during these proceedings.

Fee Summary

Claimant be and hereby is solely liable for:

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| Initial Filing Fee | = \$ 125.00 |
| Forum Fees | = \$ 900.00 |
| Total Fees | = \$1,025.00 |
| Less payments | = \$575.00 |
| Balance Due NASD Dispute Resolution, Inc. | = \$450.00 |