

ARBITRATION AWARD

NASD DISPUTE RESOLUTION, INC.

In the Matter of the Arbitration Between

Name of Claimant

Claire Pecqueur

vs.

Case No.
00-05244

Name of Respondent

Richard Thomas Tanaka

REPRESENTATION

Claimant was represented by James G. Killough of Atlanta, Georgia.

Respondent was represented by Andrew Ziolo and Rex Cornelison of Cornelison & Ziolo, LLP, Atlanta, Georgia.

CASE INFORMATION

Statement of Claim and Claimant's Submission Agreement were submitted on or about November 21, 2000.
Amendment to Statement of Claim submitted on or about June 28, 2001.

Statement of Answer and Respondent's Submission Agreement were submitted on or about September 4, 2001.

HEARING INFORMATION

A telephonic pre-hearing conference was conducted with the Arbitration Panel on December 20, 2001. Two hearing sessions were conducted in Atlanta, Georgia on April 24, 2002.

CASE SUMMARY

Claimant Claire Pecqueur ("Claimant") is a widow in her mid-70s. She opened an account with Respondent Richard Thomas Tanaka

("Respondent") in 1985 shortly after her husband died. She deposited approximately \$170,000 in securities and/or cash at account opening. Over the succeeding years, she maintained the account with Respondent as he moved to various firms. Claimant occasionally withdrew funds to finance trips and other spending, and in the late 1990s to purchase a small house, but despite these withdrawals, the account increased significantly in value. In or about 1996 the account was worth approximately \$500,000, and by 1998 it approached \$800,000. Claimant was excited by the increase, and expressed a desire to see it hit \$1 million. Claimant testified that she relied on Respondent for his investment advice; that she herself is not familiar with financial or securities market matters; and that she trusted Respondent and followed his advice.

Respondent testified that the account had increased through a speculative investment strategy, including purchases of various limited partnerships in the late 1980s, as well as purchases of junk bonds including defaulted bonds in the first half of the 1990s, as well as IPOs and other speculative investments. Respondent testified that he spoke with Claimant at least every month regarding her account; that she was aware of the speculative strategy and approved of the rewards it brought; that the account did quite well on the whole, although an occasional investment would result in a loss; and that Claimant understood and accepted those occasional losses as part of her overall investment approach. For example, on one occasion, one speculative investment he had recommended resulted in a \$30,000 loss, and Claimant's response was to the effect that the loss could have been worse.

Respondent testified that in or about February 1996, Claimant expressed some anxiety to him about the overall inflated values in the stock market in general, and wished to protect her portfolio against losses that she thought it might be subject to if the market underwent a significant correction. To this end, Respondent undertook some option transactions as a hedge. In or about mid-1998, Respondent undertook more option trading, including selling naked index options. Claimant testified that about this time, she suffered significant health problems, and her son, Andre J. Pecqueur, presently her attorney-in-fact, began receiving duplicate copies of her account statements. Mr. Pecqueur testified that he began receiving those duplicates in or about September 1998, and initially was concerned with what he considered to be possible excessive trading in the account. In or about March 1999, his accountant called to his attention the options trading in the account and expressed concern regarding its propriety. Mr. Pecqueur did not broach the matter with Respondent or his then firm, Southwick Investments, Inc. ("Southwick").

In June, 1999, Respondent sold some \$190,000 worth of telecom index options in three transactions against a rising market. The last transaction for \$82,000 was done on June 16, and Respondent left Southwick on June 18. These and some earlier positions were disastrous for the account, essentially wiping out its value. As Respondent testified, he had felt that the market was overheated and would correct and he bet wrong. Mr. Pecqueur testified that when he received the June Southwick statement he was appalled at the losses in the account, and the account was closed in or about August and transferred elsewhere. The closing value was approximately \$85,000. Claimant and her attorney approached Southwick regarding the losses, and Southwick, in the process of going out of business, paid Claimant \$100,000.

Respondent testified that the options trading in the account was not materially different from his usual speculative strategy and was not a departure from Claimant's long-term trading history. Respondent testified, however, that other than one exception, none of the prior speculative investments had exposed Claimant to losing more than the amount she had invested.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of her actual losses in options trading, allegedly some \$697,779, and also propounded several alternative measures of damages in somewhat lesser amounts; punitive damages in the sum of \$500,000; interest; reasonable attorneys' fees; and other damages deemed appropriate by the Panel.

Respondent asked that Claimant be awarded nothing on her claims.

OTHER ISSUES CONSIDERED AND DECIDED

The parties agreed that the Award in this matter may be executed in counterpart copies.

AWARD

After consideration of the pleadings, the testimony and evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

The arbitration panel finds that Claimant knowingly and willingly pursued a speculative investment strategy in her

portfolio and that she understood and accepted the risk that some of her investments would not work and she could lose the amount invested. The panel further finds, however, that the options trading undertaken by Respondent in the account, in its nature and size, constituted a materially enhanced risk of which Claimant was not aware and which she did not understand. This trading exposed Claimant precisely to the risk of loss of her entire portfolio, as in fact occurred. The panel does not believe that Claimant would have accepted the risk of loss of her entire portfolio had she been informed of that possible result of the sizeable options trading in her account. These positions and in this amount were unsuitable for Claimant, and Respondent breached his duty to Claimant in undertaking them. Respondent is liable and shall pay to Claimant the sum of \$190,000 plus post-judgment interest at the rate of 12% per annum from the date of this Award until the date of payment of the Award {NASD Code of Arbitration Procedure Rule 10330(h) (the "Code")}. No further damages or fees are awarded. All parties shall bear their own costs.

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, Southwick Investments, Inc. employed the associated person at the time of the events giving rise to the dispute. Southwick Investments, Inc. ceased being a member firm of the NASD on December 21, 2000, prior to service of the Statement of Claim in this matter. As such, no member fees are assessed.

Adjournment Fees

Adjournments requested during these proceedings:

February 28 and March 1, 2002 hearing dates, joint request pursuant to Rule 10403 of the Code, no adjournment fee assessed.

Forum Fees and Assessments

The Panel 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 arbitrators(s), that last four (4) hours or less. Fees associated with these proceedings are:

One Pre-hearing session with the Panel x \$1,200.00 = \$1,200.00
Pre-hearing conference: December 20, 2001
Two Hearing sessions x \$1,200.00 = \$2,400.00
Hearing Date: April 24, 2002

Total Forum Fees = \$3,600.00

The Panel has assessed \$1,200.00 of the forum fees to Claimant.
The Panel has assessed \$2,400.00 of the forum fees to Respondent.

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.

There were no administrative costs incurred during these proceedings.

Fee Summary

Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$500.00
Forum Fees	= \$1,200.00
Total Fees	= \$1,700.00
Less payments	= \$1,700.00
Balance Due NASD Dispute Resolution, Inc.	= \$0.00

Respondent be and hereby is solely liable for:

Forum Fees	= \$2,400.00
Total Fees	= \$2,400.00
Less payments	= \$43.75
Balance Due NASD Dispute Resolution, Inc.	= \$2,356.25

All balances are due and payable to NASD Dispute Resolution, Inc. immediately upon the parties' receipt of the Award pursuant to Rule 10330(g) of the Code.

Arbitration Panel

Robert H. Putnam, Jr., Esq.	Public Arbitrator, Presiding Chair
Donald Helton	Public Arbitrator
Richard Mc Galliard	Non-Public Arbitrator

CONCURRING ARBITRATORS' SIGNATURES:

/S/

Robert H. Putnam, Jr., Esq.
Public Chairperson

Signature Date

/S/

Donald Helton
Public Panelist

Signature Date

/S/

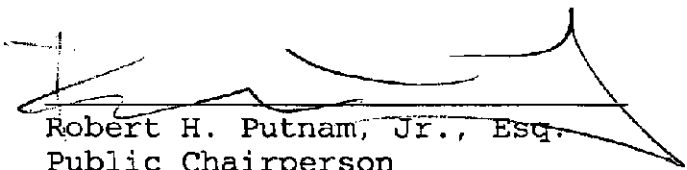
Richard McGalliard
Non-Public Panelist

Signature Date

May 21, 2002

Date of Service (For NASD Dispute Resolution, Inc. use only)

CONCURRING ARBITRATORS' SIGNATURES:


Robert H. Putnam, Jr., Esq.
Public Chairperson

5-10-02
Signature Date

Donald Helton
Public Panelist

Signature Date

Richard McGalliard
Non-Public Panelist

Signature Date

Date of Service (For NASD Dispute Resolution, Inc. use only)

CONCURRING ARBITRATORS' SIGNATURES:

Robert H. Putnam, Jr., Esq.
Public Chairperson

Signature Date



Donald Helton
Public Panelist

5-13-02
Signature Date

Richard McGalliard
Non-Public Panelist

Signature Date

Date of Service (For NASD Dispute Resolution, Inc. use only)

CONCURRING ARBITRATORS' SIGNATURES:

Robert H. Putnam, Jr., Esq.
Public Chairperson

Signature Date

Donald Helton
Public Panelist

Signature Date

Richard McGalliard
Richard McGalliard
Non-Public Panelist

5-13-02
Signature Date

Date of Service (For NASD Dispute Resolution, Inc. use only)