

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between)
)
FREDERICK J. WOLFE and HEATHER B. WOLFE,)
) Claimants,)
) Case #87-02034
vs.) Award
)
E. F. HUTTON AND CO., INC. and PETER)
PANOS,)
) Respondents.)
)

Heard before the members of the Arbitration Panel:

Arthur J. Leibell, Esq.
Arieh Leo Douer
Leslie Bishop

CASE SUMMARY

This claim was filed with the NASD, Inc. on October 28, 1987. The hearing was conducted in Fort Lauderdale, Florida on August 10 and 11, and September 8, 1989, with a total of six sessions.

Claimants Frederick J. Wolfe and Heather B. Wolfe ("the Wolfes") alleged that Respondents E. F. Hutton and Co., Inc. ("Hutton") and Peter Panos ("Panos") made material misrepresentations of fact regarding the management of Claimants' account; churned Claimants' account; breached their fiduciary duties to Claimants; and negligently and willfully mismanaged Claimants' account.

Respondents denied all allegations of wrongdoing; denied that the account was churned; alleged that Frederick Wolfe was an experienced options trader; and alleged that Claimants directed the activity in their account. Respondents asserted the affirmative defenses of estoppel; contributory negligence and lack of due diligence; assumption of risk; failure to mitigate damages; losses caused by others than Respondents; ratification; and good faith.

RELIEF REQUEST

Claimants requested damages in excess of \$200,000.00, punitive damages, costs, and interest. Respondents requested an Award in their favor and costs.

AWARD

On August 10 and 11, and September 8, 1989, the arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimants on September 21, 1988, and by Respondents Hutton and Panos on June 10, 1988. The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has determined in full and final resolution of the issues submitted for determination as follows:

1. 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 originals remain on file with the NASD, Inc.
2. Respondent Hutton is hereby not liable to the Claimants and, therefore, all claims against it are hereby dismissed.
3. Respondent Panos is hereby liable and shall pay to Claimants the amount of Five Thousand and 00/100 (\$5,000.00) Dollars.
4. The Claimants' request for punitive damages is hereby dismissed in all respects.
5. Pursuant to Section 43 of the Code of Arbitration Procedure, the Panel assesses forum fees in the amount of Six Thousand and 00/100 (\$6,000.00) Dollars (\$1,000.00 times six sessions). Respondent Hutton is assessed Two Thousand and 00/100 (\$2,000.00) Dollars and Respondent Panos is assessed Two Thousand and 00/100 (\$2,000.00) Dollars payable to the NASD, Inc. Claimants are assessed Two Thousand and 00/100 (\$2,000.00) Dollars for which the National Association of Securities Dealers, Inc. shall retain the One Thousand and 00/100 (\$1,000.00) Dollar filing fee previously deposited by the Claimants in partial satisfaction thereof.
6. The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including attorneys' fees.

OTHER ISSUES

None.

ARBITRATORS CONCURRING

Arthur J. Leibell Esq., Arie Leo Douer and Leslie Bishop

Dated this 15th day of September 1989