

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Arthur Tuckman & Carol Tuckman Claimants

vs.

Kennedy, Cabot & Co., Inc., Respondents
Patty Moore, and Jack Robertson

AWARD

CASE NO. 87-02327

SUMMARY OF ISSUES

Claimants alleged that Respondents negligently and fraudulently failed to execute an order to sell short 1,300 shares of Syntex common stock. Claimants further alleged that Respondents misrepresented the status of their account with respect to this order, that Respondents thereby breached their fiduciary duty to Claimants, inflicted emotional distress upon Claimants and converted Claimants' funds to their own use.

Respondents denied all allegations and conceded that the short sell order had caused confusion with respect to Claimants' account, but denied monetary liability.

DAMAGES AND RELIEF REQUESTED

Claimants requested damages of \$11,901.52, margin interest of \$650.00, plus interest on both amounts at 10% from January, 1987, punitive damages of \$25,000.00, and costs of arbitration.

Respondents requested dismissal of all claims.

PROCEDURAL SUMMARY

This claim was filed with the National Association of Securities Dealers, Inc. ("NASD") on November 23, 1987. On July 11, 1990, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant Arthur Tuckman on October 30, 1987, by Claimant Carol Tuckman on November 2, 1987, by Respondent Kennedy, Cabot & Company, Inc. on February 26, 1988, and by Respondent Patty Moore on April 12, 1988. The hearing was conducted in San Diego, California and lasted two sessions.

DAMAGES AND RELIEF AWARDED

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 as follows:

1. All claims against Patty Moore are dismissed.
2. Respondent Kennedy, Cabot & Company, Inc. is liable for and shall pay to Claimants the sum of One Thousand, Fifty-Two Dollars and Ninety-Six Cents (\$1,052.96), inclusive of interest.
3. The claim for punitive damages is dismissed.
4. The parties shall each bear their respective costs including attorneys' fees.
5. In accordance with Section 43 of the NASD Code of Arbitration Procedure, the NASD shall retain the \$400.00 filing fee previously deposited by the Claimants. In addition, Respondent Kennedy, Cabot & Company, Inc. is assessed forum fees of \$800.00, to be paid as follows:
 - a. \$400.00 to Claimants as reimbursement for the filing fee previously deposited; and
 - b. \$400.00 to the National Association of Securities Dealers, Inc.

OTHER ISSUES

Respondent Jack Robertson did not file a submission agreement or an answer, nor did he appear at the hearing. The panel concluded that proper service had never been accomplished, and therefore, they had no jurisdiction over him.

PRESIDING ARBITRATORS

DATE SERVED: 07/23/90


Franklin G. Allen

Richard Bryson

Patricia Reilly

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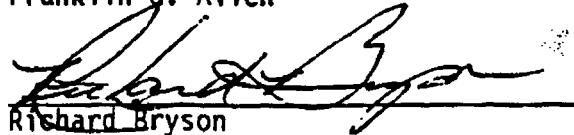
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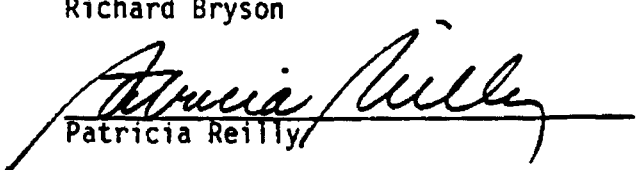
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