



Arbitration

N.A.S.D. AWARD

National Association of
Securities Dealers, Inc.
One East Broward Boulevard
Suite 1000
Ft. Lauderdale, Florida 33301
(305) 522-7391

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between)

Name of Claimant(s))

Thomson McKinnon Securities, Inc.)

Name of Respondent(s))

Kerrean Salter)

Case No. 88-00234

Heard before the members of the Arbitration Panel:

Robert Herschmann, Esq.
Eduardo J. Palacio, Esq.
Thomas J. Boyle

CASE SUMMARY

This claim was filed with the NASD on January 25, 1988, and the counterclaim was filed on April 12, 1988. The hearing was conducted in Fort Lauderdale, Florida on November 19, 1990, with a total of two (2) sessions.

Claimant, Thomson McKinnon Securities, Inc. ("TMK"), alleged that Respondent, Kerrean Salter ("Salter"), was liable for: breach of contract; open account; account stated; and money lent. Claimant alleged that Respondent has a debit balance in her margin account.

Respondent denied liability and asserted a counterclaim, which was stayed by reason of Claimant filing bankruptcy, and alleged: violations of Federal and State Securities Laws; fraud; breach of fiduciary duty; and negligence. Respondent alleged that Claimant failed to explain the risks involved in options trading and that such trading was contrary to Respondent's investment objectives.

Claimant denied liability and asserted affirmative defenses of: failure to state a cause of action; contributory negligence; comparative negligence; assumption of risk; failure to mitigate damages; waiver; estoppel; laches; ratification; that Respondent has reviewed payment and other consideration which has eliminated her damages.

RELIEF REQUESTED

Claimant requested damages in the amount of \$42,140.06, plus interest, costs, and attorney's fees and requested dismissal of the counterclaim.

Respondent requested dismissal of the claim, and counterclaimed for damages in excess of \$50,000.00 plus interest, costs, attorney's fees and punitive damages.

AWARD

On November 19, 1990, the arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant on December 3, 1987, and by Respondent on November 19, 1990. 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.
2. Respondent, Salter, is found liable and shall pay to Claimant the amount of Forty Two Thousand One Hundred Forty and 06/100 (\$42,140.06) Dollars.
3. Claimant's and Respondent's requests for attorney's fees, costs, interest and punitive damages are denied.
4. Pursuant to Section 43 of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount of Eight Hundred and 00/100 (\$800.00) Dollars (2 sessions x \$400 per session). Claimant is hereby assessed Four Hundred and 00/100 (\$400.00) Dollars for which the NASD shall retain the Four Hundred and 00/100 (\$400.00) Dollar filing fee previously deposited in full satisfaction thereof. Respondent, Salter, is hereby assessed Four Hundred and 00/100 (\$400.00) Dollars payable to the National Association of Securities Dealers, Inc.
5. The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding including attorney's fees.

OTHER ISSUES

On March 28, 1990 Claimant, Thomson McKinnon Securities, Inc., filed for protection under Chapter 11 of the Bankruptcy Code. Consequently, pursuant to the automatic stay provisions of the Bankruptcy Code, Respondent, Salter's counterclaim was stayed by the court and is hereby dismissed without prejudice.

ARBITRATORS CONCURRING

15/
Robert Herschmann, Esq.

15/
Eduardo J. Palacio, Esq.

15/
Thomas J. Boyle

Dated: December 5, 1990