

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

David W. Engle
Kay C. Engle

Claimants

vs.

Kidder Peabody & Co., Inc.
Charles W. Chepak

Respondents

CASE #88-01160
AWARD

CASE SUMMARY

Claimants David W. and Kay C. Engle alleged that the conduct of Respondent Charles W. Chepak as a registered representative, agent and employee of Respondent Kidder Peabody & Co., Inc. amounted to willful, wanton and fraudulent conduct, calculated to injure Claimants by unlawfully and illegally depriving them of their money through unauthorized transactions, concealment and manipulation of Claimants' account. Respondents specifically maintained that Claimants failed to act to exercise diligence in handling their own account, that Claimants ratified all the transactions of Respondent Charles W. Chepak and that Claimants' account was not churned.

RELIEF REQUESTED

Claimants' request damages in the amount of \$78,500.00. Respondents request that Claimants' claim be dismissed in its entirety and that the Claimants be assessed with the costs of this proceeding.

AWARD

On October 6, 1989, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimants David W. and Kay C. Engle on March 31, 1988, and by Respondent Kidder Peabody & Co., Inc. on June 2, 1988. Respondent Charles W. Chepak did not execute a submission agreement, however, he did attend the arbitration and was represented by counsel and had an answer submitted in his behalf. Pursuant to Section 12 (a) of the Code of Arbitration Procedure the arbitration panel exercised its jurisdiction over Respondent Charles W. Chepak. 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. That Respondent Kidder Peabody & Co., Inc. and Charles W. Chepak are jointly and severally liable to the Claimant and shall pay the Claimants the sum of Twenty Seven Thousand Eight Hundred Eighty Three Dollars and No Cents (\$27,883.00); inclusive of interest.

DATED: October 18, 1989

2. Pursuant to Section 43 of the Code of Arbitration Procedure, forum fees shall be equally assessed against the Claimants and Respondents. Claimants owe forum fees in the amount of \$750.00; however, they are entitled to apply their filing fee to offset this fee such that no monies are due from the Claimants as forum fees. Respondents Kidder Peabody & Co., Inc. and Charles W. Chepak are jointly and severally assessed forum fees of \$750.00. Forum fees shall be made payable to the National Association of Securities Dealers, Inc.
3. The parties shall each bear their respective costs including attorney's fees.

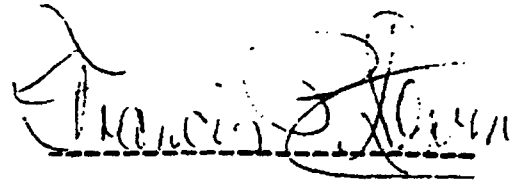
ARBITRATORS CONCURRING

/s/
Francis P. Devine III

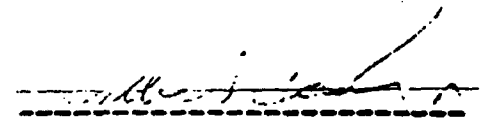
/s/
William G. Scarborough

/s/
Michael Quarto

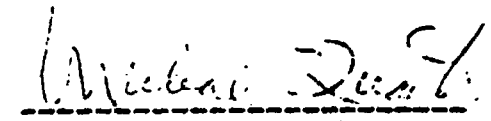
5. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain/refund the \$_____ filing fee previously deposited by the Claimant.



Arbitrator #1 Chairman



Arbitrator #2



Arbitrator #3