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NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Dr. Stanley Wieczorek

Claimant

vs.

Michelin and Company, Inc.
J.W. Gant and Associates, Inc.
& John Pearce

Respondents

Case #88-01709
Award

CASE SUMMARY

Claimant alleged that Respondent John Pearce mishandled the Claimant's account at Michelin and Company, Inc. by trading in speculative, risky over-the-counter securities that were contrary to the Claimant's stated investment objectives for his retirement plan account. Claimant further alleged that both broker-dealers failed to properly supervise Respondent John Pearce and consequently aided and abetted his activities under the doctrine of Respondeat Superior. Respondents J.W. Gant & Associates, Inc. and John Pearce maintained that the Claimant was aware at all times of the risks inherent in trading securities and had a history of trading speculative securities. Respondents J.W. Gant & Associates, Inc. and John Pearce further maintained that Claimant ratified and authorized all trades in his account and any losses were the result of market conditions or Claimant's own conduct. Respondent Michelin and Co., Inc. did not file a Statement of Answer to the Statement of Claim.

RELIEF REQUESTED

Claimant requested damages in the amount of \$1,494,595.60 plus interest, attorneys' fees, costs, filing fees and other disbursements of this action. Respondents J.W. Gant and Associates, Inc. and John Pearce asserted a counterclaim for indemnification against Respondent Michelin and Co., Inc. Respondent Michelin and Co., Inc. did not file a Statement of Answer to the Statement of Claim or to the Cross-Claim of J.W. Gant and Associates, Inc. and John Pearce.

AWARD

On April 25, 1990 and June 1, 1990 in four (4) hearing sessions in New York City, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant Dr. Stanley Wieczorek on March 23, 1988 and not signed by Respondents Michelin and Co., Inc., J.W. Gant and Associates, Inc., and John Pearce as required by Sections 12 and 25 of the Code of Arbitration Procedure. A Statement of Answer was not filed by Respondent Michelin and Co., Inc. as required by Sections 12 and 25 of the Code of Arbitration Procedure despite due notice being given.

The initial claim was filed on May 25, 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 claims of the Claimant against all Respondents be and hereby are dismissed in their entirety.
2. The Cross-Claim of J.W. Gant & Associates, Inc. and John Pearce against Michelin and Co., Inc. be and hereby is dismissed in its entirety.
3. The parties shall each bear their respective costs including attorney fees.
4. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$1,000.00 filing fee previously deposited by the Claimant and \$1,000.00 in forum fees is assessed against all Respondents jointly made payable to the National Association of Securities Dealers, Inc. as costs of four (4) hearing sessions in this matter.

CONCURRING ARBITRATORS



Stan West, Esq.

Howard Mandell

Lewis Silver

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