

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between)

ROBERT T. WILLIAMSON,)

Claimant,)

vs.)

Case #88-01779

Award)

MERRILL LYNCH, PIERCE, FENNER AND SMITH,)
INC. and HARRY C. TREBOR,)Respondents.)

Heard before the members of the Arbitration Panel:

Professor Stephen K. Halpert
Dr. Sherman R. Kaplan
Robert Weinstein

CASE SUMMARY

This claim was filed with the NASD, Inc. on May 31, 1988. The hearing was conducted in Fort Lauderdale, Florida on July 24 and 26, 1989 with a total of (3) three sessions.

Claimant, Robert T. Williamson ("Williamson"), alleged that Respondents, Merrill Lynch, Pierce, Fenner & Smith, Inc. ("MLPFS") and Harry C. Trebor ("Trebor"), wrongfully detained his Greyhound Stock; or, alternatively, made unauthorized trades in his account by selling his Greyhound stock and by purchasing stock in two other companies; that Respondents' actions constitute conversion and breach of contract.

Respondents denied all wrongdoing; alleged that Claimant was a sophisticated investor who authorized each and every trade in his account. Respondents raised the affirmative defenses of contributory negligence; damages caused by circumstances beyond their control; authorization and ratification; good faith; failure to mitigate damages; and, failure to exercise due diligence.

RELIEF REQUESTED

Claimant requested replevin by the return of his Greyhound stock, plus all dividends and other payments; damages for conversion in the amount of \$116,827.90, plus interest at the legal rate from July 23, 1986; costs of these proceedings; attorney's fees; punitive damages and other relief. Respondents requested dismissal and their attorney's fees.

AWARD

On July 24 and 26, 1989, the arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant on June 20, 1988, and by Respondent, Trebor, on August 29, 1988 and by Respondent, MLPFS, on September 9, 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. Respondents, MLPFS and Trebor, are hereby liable, jointly and severally, and shall pay to the Claimant damages in the amount of One Hundred Thirteen Thousand Nine Hundred Seventeen and 00/100 (\$113,917.00) Dollars plus interest at the legal rate of 12% per annum from July 23, 1986 to date in the amount of Forty One Thousand Ten and 12/100 (\$41,010.12) Dollars for a total of One Hundred Fifty Four Thousand Nine Hundred Twenty Seven and 12/100 (\$154,927.12) Dollars. In exchange for such payment, Claimant shall relinquish all title and control of the 7,500 shares of the Pharmacontrol stock in his account with MLPFS (or any proceeds of the sale thereof) to MLPFS.
3. Pursuant to Section 43 of the Code of Arbitration Procedure, Respondent, MLPFS, is hereby assessed forum fees in the amount of Two Thousand Two Hundred Fifty (\$2,250.00) Dollars (\$750 x three sessions), of which MLPFS shall pay Seven Hundred Fifty and 00/100 (\$750.00) Dollars directly to the Claimant, and shall pay Fifteen Hundred and 00/100 (\$1,500.00) Dollars to the NASD, Inc. The National Association of Securities Dealers, Inc. shall retain the Seven Hundred Fifty and 00/100 (\$750.00) Dollar filing fee previously deposited by the Claimant.
4. Claimant's request for punitive damages and attorney's fees is denied in all respects.
5. Respondents' request for attorney's fees is denied in all respects.
6. Respondents' deposit of \$100.00 for adjournment fees shall be refunded to the Respondents by the NASD, Inc.
7. The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding.

8910123

—
OTHER ISSUES

None.

ARBITRATORS CONCURRING

Professor Stephen K. Halpert, Dr. Sherman R. Kaplan and Robert Weinstein.

Dated: August 1, 1989

8910123

Claimant filed a post-hearing submission in response and alleged that had the Respondent informed him of this publicly available information he could have sold all the bonds on the same day or kept the bonds and received both the price increase and the accrued interest. Claimant further requested an award of punitive damages assessed against Respondent.

The parties stipulated at the hearing in this matter to the execution and service of this award in counterpart copies.

ARBITRATOR CONCURRING

DATE SERVED: 08/01/89

Gilbert E. T. Haakh



Howard A. Emirhanian

John B. Wells