

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Robert Williamson

Claimant

and

U.S. Associates, Inc.

Respondents

A W A R D
88-2453

CASE SUMMARY

In a claim filed with the NASD on August 2, 1988, Claimant Robert Williamson ("Williamson") alleged that Respondent U.S. Associates, Inc. ("U.S. Associates") and its registered representatives, breached the NASD Rules of Fair Practice, violated Regulation T and the Commodity Exchange Act in effecting unsuitable option trades on soybean and corn futures for Williamson's account.

U.S. Associates answered that Williamson opened an account and traded with USA Financial Futures and Stotler and Company neither of which was an NASD member. Therefore, the claim should be dismissed for lack of jurisdiction.

RELIEF REQUESTED

Williamson requested damages in the amount of \$9,400.16 plus attorney's fees and an award that he not be required to pay any more money to U.S. Associates. U.S. Associates requested dismissal of the claim.

OTHER ISSUES

Prior to the hearing in this matter, U.S. Associates had requested dismissal of the claim pursuant to Section 12(b) of the NASD Code of Arbitration Procedure. The Director of Arbitration originally denied the motion. At the beginning of the hearing, U.S. Associates renewed the motion to dismiss for lack of jurisdiction. The panel took this motion under advisement until receipt of evidence.

Williamson moved to amend the amount in controversy to add the amount of \$26,555.14 plus statutory interest and attorney's fees. This was the amount in controversy involved in a lawsuit in federal court in Chicago, Illinois where Williamson is a defendant and Stotler and Co. is the plaintiff. The panel allowed this amendment pursuant to its authority set forth in Section 39(b) of the NASD Code of Arbitration Procedure.

Williamson also moved to preclude U.S. Associates from presenting any facts or defenses to the claim based upon U.S. Associates failure to file a specific answer to the claim. The motion under Code Section 25b2(iii) was denied by the panel.

AWARD

On Tuesday, August 15, 1989, in Little Rock, Arkansas, during a hearing lasting 2 sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on July 28, 1988 by Claimant Robert Williamson. Respondent U.S. Associates did not execute a submission to arbitration, but as an NASD member is obligated to arbitrate the instant dispute pursuant to Section 12 of the NASD Code of Arbitration Procedure.

The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has decided in full and final resolution of the issues submitted for determination as follows:

1. U.S. Associates' motion to dismiss for lack of jurisdiction is denied;
2. U.S. Associates, Inc. is liable for and shall pay to Williamson the sum of Nine Thousand Four Hundred Dollars and Sixteen Cents (\$9,400.16);
3. Williamson shall also be entitled to indemnification from U.S. Associates to the extent any damages arising from the transactions at issue in the instant arbitration are awarded and paid to Stotler as a consequence of a pending lawsuit in federal District Court in Chicago, Illinois, wherein Williamson is the named defendant;
4. The parties shall each bear their respective costs, expenses and attorneys' fees incurred in connection with this proceeding; and

5. Pursuant to Section 43(b) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain as forum fees the \$200.00 filing fee previously deposited with the NASD by Williamson and U.S. Associates is assessed and shall pay to the NASD, as additional forum fees, the sum of \$600.00.

Panel Members Concurring

Dated: _____ /S/ _____
Steven Taylor Shults

Dated: _____ /S/ _____
Charles C. Sisney

Panel Members Dissenting

Dated: _____ /S/ _____
Richard D. Bingham