

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between)	
Elizabeth O'Connell)	Claimant
vs.)	
E.F. Hutton, Inc.)	
Michael Schlegel)	Respondents
)	AWARD
)	CASE NO. 88-02636

SUMMARY OF ISSUES

Claimant alleged Respondents breached their fiduciary duty to her by investing her funds in common stocks that were unsuitable for her financial condition, and that Respondents purchased securities for her account on margin without her knowledge or authorization. Claimant further alleged Respondents made unauthorized trades and churned her account in order to generate commissions for their own benefit. Claimant alleged Respondents acted fraudulently, and that the corporate Respondent failed to supervise the Respondent account executive.

Respondents denied all allegations, and responded that all trading in Claimant's account was done at the express authorization of Claimant, including the opening of a margin account. Respondents further asserted that all losses in Claimant's account were the result of market conditions, Claimant's investment decisions and the withdrawal of cash from the account.

DAMAGES AND RELIEF REQUESTED

Claimant requested damages of \$100,000.00.

Respondents requested dismissal of all claims.

DAMAGES AND RELIEF AWARDED

This claim was filed with the NASD on August 18, 1988. On September 6, 1990, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant on July 18, 1988 and by Respondents on December 27, 1988.

The hearing was conducted in Salt Lake City, Utah and lasted one session. 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 as follows:

1. All claims brought by Claimant are dismissed.
2. The parties shall each bear their respective costs including attorney's fees.
3. In accordance with Section 43 of the NASD Code of Arbitration Procedure, the NASD shall retain the \$500.00 filing fee previously deposited by Claimant.

OTHER ISSUES

Claimant did not appear at the hearing. The panel determined that she had been properly notified of the September 6, 1990 hearing date, but had failed to notify either the NASD or Respondents' counsel of her current address and telephone number. The panel proceeded with the evidentiary hearing, using Claimant's Statement of Claim and attached documents as the presentation of her case, according to Section 29 of the Code of Arbitration Procedure.

ARBITRATORS CONCERNING

DATE SERVED: 12/22/90

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George John Potter
George John Potter