

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

DEAN WITTER REYNOLDS, INC.

Claimant

and

GORDON FORBES

Respondent

CASE NO. 88-02884

CASE SUMMARY

Dean Witter Reynolds, Inc. ("Claimant") alleged that Gordon Forbes ("Respondent") owes Claimant for an unpaid debit balance in the Claimant account pursuant to the contracts between the parties.

Claimant denied the claim and further alleged as follows:

1. The contracts between the parties were adhesion contracts, and therefore unenforceable;
2. Respondent was unsuitable for the type of option trading that occurred in his account;
3. Claimant was negligent in a) failing to properly supervise its agents and employees, b) violating the suitability and know your customer rules of the NASD and the NYSE, and c) approving the high risk trades in the Claimant's account;
4. Claimant was negligent and breached its fiduciary duty in liquidating the Claimants account;
5. Claimant breached its contract with Respondent by failing to properly advise him of the ramifications of his trading activity; and
6. Claimant violated the rules of the Self Regulatory Organizations and its own procedures by allowing trades to be wired in without having a registered representative approve the trades.

Claimant denied the counterclaims and further alleged:

1. Respondent was a sophisticated option trader;
2. Respondent was aware of the risks of option trading;
3. Respondent's counterclaims are barred by a) Respondents comparative or contributory negligence, and b) the doctrines of ratification, estoppel, assumption of the risk, and waiver; and
4. Claimant had no duty to disapprove of unsolicited trades placed by the Respondent.

RELIEF REQUESTED

Claimant requested actual damages of \$251,741.80, interest of \$68,507.28, administrative expenses, attorneys fees and costs. Claimant also requested that their counterclaim be dismissed.

Respondent requested that the Claimant be dismissed and be awarded damages of approximately \$204,000.00, plus attorneys' fees and costs.

AWARD

On September 9, 1988, the NASD received the Claimant's Statement of Claim. On February 28, March 1, and March 2, 1990 in a hearing lasting eight (8) sessions in Denver, Colorado, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on August 31, 1988 by Erica Bunin on behalf of the Claimant and on October 7, 1988 by the Respondent.

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. Gordon Forbes shall be liable for and pay to Dean Witter Reynolds, Inc. Three Hundred Twenty Thousand Two Hundred Forty-Nine Dollars and Eight Cents (\$320,249.08) which includes pre-award interest.

2. The parties shall bear their own attorneys' fees and costs.

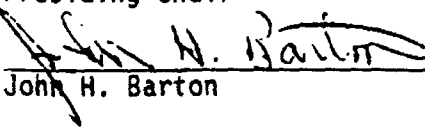
3. Pursuant to Section 43 of the NASD Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the Claimant's initial deposit amount of \$1,250.00 and the Claimant's shall pay an additional \$6,750.00 as forum fees, to the NASD through its staff counsel.

By the Panel

Dated: _____

/S/ _____
Thaddeus J. Tecza
Presiding Chair

Dated: 3-21-90

/S/ 
John H. Barton

Dated: _____

/S/ _____
Michael McCarthy

RELIEF REQUESTED

Claimant requested actual damages of \$251,741.80, interest of \$68,507.28, administrative expenses, attorneys fees and costs. Claimant also requested that their counterclaim be dismissed.

Respondent requested that the Claimant be dismissed and be awarded damages of approximately \$204,000.00, plus attorneys' fees and costs.

AWARD

On September 9, 1988, the NASD received the Claimant's Statement of Claim. On February 28, March 1, and March 2, 1990 in a hearing lasting eight (8) sessions in Denver, Colorado, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on August 31, 1988 by Erica Bunin on behalf of the Claimant and on October 7, 1988 by the Respondent.

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. Gordon Forbes shall be liable for and pay to Dean Witter Reynolds, Inc. Three Hundred Twenty Thousand Two Hundred Forty-Nine Dollars and Eight Cents (\$320,249.08) which includes pre-award interest.
2. The parties shall bear their own attorneys' fees and costs.
3. Pursuant to Section 43 of the NASD Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the Claimant's initial deposit amount of \$1,250.00 and the Claimant's shall pay an additional \$6,750.00 as forum fees, to the NASD through its staff counsel.

By the Panel

Dated: March 28, 1990

/S/ Thaddeus J. Tecza
Thaddeus J. Tecza
Presiding Chair

Dated: _____

/S/ _____
John H. Barton

Dated: _____

/S/ _____
Michael McCarthy

RELIEF REQUESTED

Claimant requested actual damages of \$251,741.80, interest of \$68,507.28, administrative expenses, attorneys fees and costs. Claimant also requested that their counterclaim be dismissed.

Respondent requested that the Claimant be dismissed and be awarded damages of approximately \$204,000.00, plus attorneys' fees and costs.

AWARD

On September 9, 1988, the NASD received the Claimant's Statement of Claim. On February 28, March 1, and March 2, 1990 in a hearing lasting eight (8) sessions in Denver, Colorado, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on August 31, 1988 by Erica Bunin on behalf of the Claimant and on October 7, 1988 by the Respondent.

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. Gordon Forbes shall be liable for and pay to Dean Witter Reynolds, Inc. Three Hundred Twenty Thousand Two Hundred Forty-Nine Dollars and Eight Cents (\$320,249.08) which includes pre-award interest.

2. The parties shall bear their own attorneys' fees and costs.

3. Pursuant to Section 43 of the NASD Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the Claimant's initial deposit amount of \$1,250.00 and the Claimant's shall pay an additional \$6,750.00 as forum fees, to the NASD through its staff counsel.

By the Panel

Dated: _____ /S/ _____
Thaddeus J. Tecza
Presiding Chair

Dated: _____ /S/ _____
John H. Barton

Dated: March 21, 1990 /S/ Michael E. McCarthy
Michael McCarthy