

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

JO LANDSTROM

Claimant

and

THOMAS BARNES

Respondent

CASE NO. 88-02944

CASE SUMMARY

A. Jo Landstrom ("Claimant") alleged that Thomas Barnes ("Respondent") engaged in the following:

1. Churned the Claimants account;
2. Made unsuitable recommendations to the Claimant regarding index option trading and margin trading;
3. Made material misrepresentations and omissions of fact regarding index option trading; and
4. Breached his agreement with the Claimant to indemnify her for all losses which exceed \$75,000.00;

B. Claimant alleged that the Respondent was liable for: 1) breach of contract, 2) fraud, 3) breach of fiduciary duty, 4) breach of warranty, 5) violations of CRS section 11-51-101, Section 12(2) of the Securities Act of 1933, Section 10b of the Securities Exchange Act of 1934 and Rule 10b5 promulgated thereunder, 6) exemplary damages, and 7) damages for emotional distress.

C. Respondent denied each and every claim of the Claimant and further alleged as follows:

1. Claimant was an experienced investor who was aware of the risks of option index trading;
2. Claimant claims are barred by her own lack of diligence and by the doctrines of waiver and estoppel;
3. There is no legal or equitable basis for attorneys fees or punitive damages; and
4. The Claimant was made whole for any alleged losses suffered by the Claimant from earlier settlements with the brokerage firms for whom the Respondent worked during the times in which the option trading occurred.

RELIEF REQUESTED

Claimant requested actual damages of \$268,593.00, attorneys fees of \$49,035.00, expert fees of \$9,955.00, plus punitive damages in an amount to be determined by the arbitrators. Respondent requested that the Claimant's claims be dismissed.

AWARD

On September 14, 1988, the NASD received the Statement of Claim of the Claimant. On April 16 and 17, 1990 during a hearing lasting 4 (four) sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on September 1, 1988 by the Claimant and on June 5, 1989 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. The Respondent shall be liable for and shall pay to the Claimant the following amounts;

a. Actual damages	-	\$3,125.00
b. Punitive damages	-	\$15,000.00
c. Attorneys' fees and costs-		\$20,000.00
Total		<u>\$38,125.00</u>

2. Pursuant to Section 43(b) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall refund as forum fees, the \$400.00 filing fee previously deposited with the NASD by the Claimant and Respondent shall pay to the NASD \$1,600.00 as forum fees.

By the Panel

Dated: 5-1-90 /S/ Samuel E. Wing, Esq.
Presiding Chair

Dated: 5-2-90 /S/ Robert C. Roth, Jr. Esq.

Dated: 5-4-90 /S/ Michael E. McCarthy

Date Served: 5-17-90