

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

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IN THE MATTER OF THE ARBITRATION BETWEEN :  
: James E. & Margaret J. Shrader :  
: Claimants : Case #88-03182  
: :  
: AWARD  
: :  
vs. :  
: :  
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: :  
The Pinnacle Group, Lee Folger III and :  
J.C. Bradford & Company :  
Respondents :  
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CASE SUMMARY → options

Claimants James E. & Margaret J. Shrader ("Claimants") alleged that Respondents The Pinnacle Group, Inc. ("Pinnacle") and Lee Folger III ("Folger") failed to follow Claimant James Shrader's instructions and executed unauthorized transactions in the Claimants' account, both of which caused the Claimants to sustain losses. Claimants also alleged that Respondent Pershing Division of Donaldson, Lufkin & Jenrette Securities Corp. ("Pershing") failed to properly manage the margin requirements of the Claimants' account. Further, the Claimants alleged that Respondent J.C. Bradford & Co. was a successor-in-interest to Pinnacle, and assumed Pinnacle's liabilities as to the Claimants' account when it purchased Pinnacle's Raleigh, N.C. office.

Respondents Pinnacle and Folger contended that all trades executed in the Claimants' account were expressly authorized and approved by the Claimants. Pinnacle and Folger contended Claimant James Shrader is an extremely sophisticated index options trader who directed his own trading, instructing Folger on what positions to buy and sell. Pinnacle also asserted a counterclaim against the Claimants in which it alleged the Claimants have an outstanding debit balance in their account. The Claimants contended they were not liable on the debit balance since it was Folger's failure to comply with the Claimants' instructions and unauthorized trades which led to the debit balance.

Respondent Pershing contended it simply operated to execute and clear transactions for Pinnacle's customers upon the order and instruction of Pinnacle, and responsibility for supervision of the accounts introduced to Pershing by Pinnacle was with Pinnacle. Pershing also asserted a counterclaim against Pinnacle for indemnification pursuant to the terms of their clearing agreement. Pinnacle did not dispute the application of the indemnity terms of its clearing agreement with Pershing, however, Pinnacle did amend its counterclaim against the Claimants to include indemnification for any liability of Pinnacle to Pershing. The Claimants again contended that Pinnacle and Folger's unauthorized actions, and failures to execute, gave rise to any liability to Pershing,

therefore, Claimants are not liable for monies owed to Pershing from Pinnacle.

Respondent J.C. Bradford contended that the Claimants' account was neither an asset transferred nor a liability assumed by J.C. Bradford, and that J.C. Bradford had no involvement in the claims giving rise to this particular claim.

#### RELIEF REQUESTED

Claimants James E. & Margaret Shrader requested actual damages of \$165,966.70, attorney's fees of \$31,903.52, punitive damages, costs, and that Respondents cover the debit balance claimed on the index options trading. Respondents Pinnacle and Folger requested dismissal of the Statement of Claim in its entirety, plus, pursuant to Pinnacle's counterclaims against the Claimants, actual damages of \$131,981.00 plus interest from December 31, 1987, attorney's fees of \$26,910.00 costs, and indemnification for any monies owed by Pinnacle to Pershing, pursuant to Pershing's counterclaim. Claimants requested dismissal of these counterclaims. Respondent Pershing requested dismissal of all claims made against it or, in the alternative, that Pinnacle be found to have an obligation to indemnify Pershing for any liability. Respondent J.C. Bradford & Co. requested dismissal of all claims made against it.

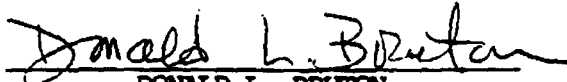
#### AWARD

On March 28, June 27 and 28, 1990, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimants James E. & Margaret Shrader on October 12, 1988, by Respondent The Pinnacle Group, Inc. on December 13, 1988, by Respondent Lee Folger III on July 16, 1990, by Respondent Pershing Division of Donaldson, Lufkin & Jenrette Securities Corp. on December 14, 1988, and by Respondent J.C. Bradford & Co. on December 12, 1988. The initial claim was filed on October 14, 1988. The hearing was conducted in Raleigh, N.C. and consisted of six (6) hearing sessions. The arbitration panel, having considered the pleadings, the testimony, and the evidence presented before, during and after the hearing, has determined in full and final resolution of the issues submitted for determination as follows:

1. At the hearing, the arbitrators were informed that the Claimants had discontinued with prejudice all claims against Respondent Pershing Division of Donaldson, Lufkin & Jenrette Securities Corp., and that Respondent Pershing had discontinued with prejudice its claim for indemnification against Respondent The Pinnacle Group, Inc. Therefore, these claims were not decided.
2. All claims against Respondent J.C. Bradford & Co. be and hereby are dismissed in their entirety.
3. All claims against Respondent The Pinnacle Group, Inc. be and hereby are dismissed in their entirety.
4. All claims against Respondent Lee Folger III be and hereby are dismissed in their entirety.

5. Claimants James E. & Margaret Shrader be and hereby are jointly and severally liable and shall pay to Respondent The Pinnacle Group, Inc. the sum of One Hundred Thirty Eight Thousand Dollars and No Cents (\$138,000.00), inclusive of interest.
6. Claimants James E. & Margaret Shrader be and hereby are jointly and severally liable and shall pay to Respondent The Pinnacle Group, Inc. the sum of Twenty Thousand Dollars and No Cents (\$20,000.00), with no interest, representing attorney's fees; awarded pursuant to North Carolina law.
7. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$1000.00 filing fee previously deposited by the Claimants. The Claimants be and hereby are jointly and severally liable and shall pay to the National Association of Securities Dealers, Inc. the sum of Two Thousand Five Hundred Dollars and No Cents (\$2,500.00), and Respondent The Pinnacle Group, Inc. be and hereby is liable and shall pay to the National Association of Securities Dealers, Inc. the sum of One Thousand Five Hundred Dollars and No Cents as costs of the six hearing sessions conducted in this matter.

CONCURRING ARBITRATORS

  
DONALD L. BRUTON

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RICHARD ALLEN KAYE

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GEORGE E. COLEMAN, JR.

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RICHARD ALLEN KAYE



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GEORGE E. COLEMAN, JR.

Dated  
8/1/90