

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between)
)
RUSSELL S. KOSS,)
) Claimant,)
) Case #88-03709
vs.) Award
)
DEAN WITTER REYNOLDS, INC.,)
) Respondent.)
)

Heard before the members of the Arbitration Panel:

John P. Cullem, Esq.
Mr. Henry Sanchez Jr., Esq.
Mr. Ralph Feith

CASE SUMMARY

This claim was filed with the NASD, Inc. on December 1, 1988. The hearing was conducted in Tampa, Florida on November 17, 1989 with a total of two (2) sessions.

Claimant Russell Koss ("Koss") alleged that Respondent Dean Witter Reynolds, Inc. ("Dean Witter") was liable for negligence; negligent supervision; and, breach of fiduciary duty. Specifically, Claimant alleged that Respondent's employee failed to follow Claimant's instructions to place no more than Ten Thousand and 00/100 (\$10,000.00) Dollars at risk and was negligent in engaging in straddle option writing and investing in naked options. Respondent alleged that Claimant did not instruct his broker to discontinue the option writing strategy until after Claimant had sustained a loss of Nine Thousand Five Hundred and 00/100 (\$9,500.00) Dollars; that Claimant was suitable for all the investments which were made; and, all transactions were approved by Claimant.

RELIEF REQUESTED

Claimant requested damages in the amount of Fourteen Thousand and 00/100 (\$14,000.00) Dollars inclusive of interest, as well as attorney's fees and other costs. Respondent requested dismissal of the claim and costs.

AWARD

On November 17, 1989, the arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant on November 23, 1988, and by Respondent on February 27, 1989. 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 for determination as follows:

1. The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASD, Inc.
2. Respondent Dean Witter is not liable, and, therefore, all claims against it are hereby dismissed.
3. Claimant's request for attorney's fees is hereby dismissed in all respects.
4. Pursuant to Section 43 of the Code of Arbitration Procedure, the arbitrators have assessed the Claimant forum fees in the amount of Eight Hundred and 00/100 (\$800.00) Dollars (\$400 x two sessions). The NASD, Inc. shall retain the Four Hundred and 00/100 (\$400.00) Dollar filing fee previously deposited by the Claimant in partial satisfaction of such forum fees.
5. The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding.

OTHER ISSUES

None.

ARBITRATORS CONCURRING

John P. Cullem Esq., Henry Sanchez Jr. Esq. and Mr. Ralph Feith.

Dated: November 30, 1989