

Region S D C
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NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

Thomas Quijencio &
Elizabeth Quijencio

Claimant(s)

vs.

Drexel, Burnham Lambert, Inc.
Michael Savarese

Respondent(s)

AWARD

CASE #88-03883

SUMMARY OF ISSUES

This case was filed on December 21, 1988. Claimants Thomas Quijencio and Elizabeth Quijencio opened an account with Respondent Drexel Burnham Lambert, Inc. through its representative Michael Savarese. Claimants allege that they were told by Respondent Savarese that the funds used to open the account would not be placed at risk. However, the funds were used to open a margin account for put option writing and eventually the account was sold out leaving a debit balance of \$1,461.84.

Claimants allege that when their account balance reached \$14,000.00 they told Respondent Savarese to close the positions and cash them out. This was not done.

Respondents allege that claimants were fully aware of the risk factors involved in the put option writing program and assumed the risks voluntarily. They also assert that the order to close out the account was expressly revoked by the Claimants and that the claimants approved or ratified all the options transactions undertaken.

DAMAGES AND RELIEF REQUESTED

Claimants seek damages in excess of \$41,000.00 for breach of fiduciary duty, breach of contract, misrepresentation and unsuitability.

Respondents cross claim for the debit balance of \$1,461.84 plus interest on said amount by their contract with Claimants and costs.

DAMAGES AND RELIEF AWARDED

On September 25 and October 12, 1989 in San Diego, California the undersigned arbitrator heard the controversy in four sessions between the

parties as set forth in submissions to arbitration signed by Claimant Thomas Quijencio and Elizabeth Quijencio on September 8, 1988 and by Respondent Drexel Burnham Lambert and Michael Savarese on March 3, 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. Respondents Drexel Burnham Lambert and Michael Savarese are jointly and severally liable and shall pay to claimants Thomas Quijencio and Elizabeth Quijencio the sum of Nineteen Thousand Dollars and no cents (\$19,000.00).

2. Respondent Drexel Burnham Lamberts' cross claim for \$1,461.84 is dismissed.

3. Respondents Drexel Burnham Lambert, Inc and Michael Savarese are jointly and severally assessed and shall pay to the National Association of Securities Dealers the sum of \$1,200.00 in forum fees.

4. The parties shall each bear their respective costs including attorneys' fees.

5. Pursuant to Section 43 of the National Association of Securities Dealers, Inc ("NASD") Code of Arbitration Procedure, the NASD shall retain the \$400.00 filing fee previously deposited by the Claimant.

ARBITRATORS CONCURRING

DATE SERVED: December 14, 1989