

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Jonathan Wanderstock

Claimant

vs.

Timothy P. MacNeill

Respondent

CASE #88-03903  
AWARD

CASE SUMMARY

During the period in question, Claimant Jonathan Wanderstock maintained a brokerage account with Smith Barney. Respondent Timothy MacNeill was Mr. Wanderstock's account executive. Claimant alleges that without prior authorization on May 27, 1987, Respondent sold from the account 100 shares of the common stock of Western Savings and Loan Association. The price of the stock at the time of the allegedly unauthorized sale was 19 7/8. Respondent allegedly assured Claimant that the transaction was a mistake and must be corrected. However, at a later date when Claimant attempted to sell the 100 share(along with an additional 100 shares) at a price of 23 5/8 he was informed that he no longer owned the 100 shares in question.

Claimant also alleged that Respondent made an additional unauthorized purchase and sale of McCaw Cellular Class A Stock. Claimant alleged that while this trade was profitable; it was another example of Respondent's unauthorized acts.

RELIEF REQUESTED

Claimant requested damages in the amount of \$425.00, plus interest from the dates of the initial unauthorized transaction and attorney's fees.

AWARD

On October 17, 1989, the undersigned arbitrator heard the controversy between the parties as set forth in submission to arbitration signed by Claimant Jonathan Wanderstock on December 7, 1988. Respondent Timothy P. MacNeill did not execute a submission agreement, he did not submit an answer nor did he appear at the hearing. However, Respondent MacNeill was served with Claimant's claim on January 11, 1989 and was reserved with Claimants claim on May 17, 1989. Respondent MacNeill received notice of the hearing date on March 10 and April 12, 1989 (memoranda with certified mail cards are attached to this award). Pursuant to Section 12(a) of the NASD, Inc. Code of Arbitration Procedure, the presiding arbitrator exercised jurisdiction over the Respondent. The initial claim was filed on December 22, 1988. The arbitrator, having considered the pleadings, and the evidence submitted, has determined in full and final resolution of the issues submitted for determination as follows:

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1. That Respondent is liable to the Claimant and shall pay the sum of Five Hundred Thirty Five Dollars and No Cents (\$535.00); inclusive of interest.
2. The parties shall each bear their respective costs including attorney's fees.
3. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$15.00 filing fee previously deposited by the Claimant as costs of the October 17, 1989 single hearing session conducted in this matter.

PRESIDING ARBITRATOR

/s/ \_\_\_\_\_  
Robert L. Seaman

DATED: October 18, 1989