

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Pamela Anne Houle

Claimant

vs.

Thomson McKinnon Securities, Inc. Respondents
and L. H. Westdahl

AWARD

CASE NO. 89-00157

SUMMARY OF ISSUES

This case was filed on January 17, 1989. Claimant Pamela Anne Houle alleges that Respondent Thomson McKinnon Securities, Inc., through its representative L. H. Westdahl, mishandled Claimant's brokerage account by making unsuitable and unauthorized trades. Said activity included margining of GNMA securities and excessive trading of stocks.

Respondents allege that Claimant was fully informed of all activity in her account and knew the securities involved and the risks and rewards of the transactions. Claimant approved all purchases and sales transactions and for more than three years dealing with Respondents, made no complaints.

Respondents also allege that the element of control necessary for establishing churning was not proved.

DAMAGES AND RELIEF REQUESTED

Claimant seeks recovery of losses of not less than \$88,000.00, prejudgment interest and punitive damages.

Respondents seek dismissal of the claim in its entirety plus costs.

DAMAGES AND RELIEF AWARDED

On February 27, 1990, in Portland, Oregon, the undersigned arbitrators heard the controversy in two sessions between the parties as set forth in submissions to arbitration signed by Claimant Pamela Anne Houle on August 23, 1988 and by Respondent Thomson McKinnon Securities, Inc. on June 2, 1989. Respondent L. H. Westdahl did not file a submission agreement but stipulated to the jurisdiction of the arbitration panel

prior to the commencement of the hearing. 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 Thomson McKinnon Securities, Inc. and L. H. Westdahl are jointly and severally liable for and shall pay to Claimant the sum of Forty-Two Thousand, Seven Hundred Seventy-Two Dollars and Forty-Two Cents (\$42,772.42).

2. Respondents are also jointly and severally liable for and shall pay to Claimant interest through February 28, 1990 in the amount of Twenty Thousand, Four Hundred Fifty-Eight Dollars and Five Cents (\$20,458.05).

3. Respondent L. H. Westdahl is solely liable for and shall pay to Claimant the sum of Twelve Thousand, Five Hundred Dollars and No Cents (\$12,500.00) as punitive damages.

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

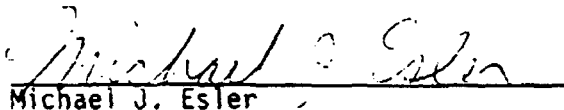
5. Pursuant to Section 43 of the National Association of Securities Dealers, Inc. ("NASD") Code of Arbitration Procedure, the NASD shall retain the \$500.00 filing fee previously deposited by the Claimant. Respondents are jointly and severally assessed and shall pay to the National Association of Securities Dealers, Inc. \$500.00 in forum fees.

OTHER ISSUES

The panel found that Respondent L. H. Westdahl's actions were intentional and in reckless disregard of Claimant's rights and therefore found cause under Oregon state statute (ORS 41.135) for the award of punitive damages.

PRESIDING ARBITRATORS

DATE SERVED: 04/30/90


Michael J. Esler

John A. Goffrier

James A. Moore