

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

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In the Matter of the Arbitration Between

Carole B. Williams

Claimant

vs.

Philips, Appel & Walden, Inc.
Robert Petrocine

Respondents

Case #89-00221
AWARD

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CASE SUMMARY

Claimant, Carole B. Williams, alleges that she told Respondent Robert Petrocine, the registered representative with Respondent's firm Philips, Appel and Walden, Inc., that she wanted to invest \$50,000.00 in a safe, secure and liquid investment and that Respondents instead recommended that she invest in scores. She further alleges that said investment was unsuitable in light of her investment goal, background and investment experience. She also alleges that her broker traded on margin without her approval.

Respondent, Robert Petrocine, denies the allegations of wrongdoing. He alleges that Claimant was made aware of the risk involved and that trades were consistent with her objective and wishes. He further alleges an affirmative defense and interposes a counterclaim for malicious and wilful prosecution and attorneys' fees.

Respondent, Philips, Appel & Walden, Inc. did not interpose an Answer, execute a Submission Agreement or appear at the hearing.

RELIEF REQUESTED

Claimant requests that the arbitration panel award her \$60,000.00, punitive damages and attorneys' fees. Respondent, Robert Petrocine, requests that the arbitration panel dismiss the claim and award him \$50,000.00 on his counterclaim together with costs, interest and such other relief as the panel deems proper.

AWARD

On March 13, 1990 and March 29, 1990, the undersigned heard the controversy between the parties as set forth in submissions to arbitration signed by the Claimant on January 23, 1989 and by the Respondent Robert Petrocine on May 22, 1989. The hearing was held in New York City, NY and consisted of three sessions. 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. Respondent Robert Petrocine is hereby liable to the Claimant and shall pay Six Thousand and Fifty-Two Dollars and Ninety-Three Cents (\$6,052.93).
2. Respondent Robert Petrocine is also liable to the Claimant for attorneys' fees in the amount of Two Thousand Five Hundred Dollars and Zero Cents (\$2,500.00).
3. Respondent Philips, Appel & Walden, Inc. is hereby liable to the Claimant and shall pay Six Thousand and Fifty-Two Dollars and Ninety-Three Cents (\$6,052.93).
4. Respondent Philips, Appel & Walden, Inc. is also liable to the Claimant for attorneys' fees in the amount of Two Thousand Five Hundred Dollars and Zero Cents (\$2,500.00).
5. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall refund the \$400.00 filing fee previously deposited by the Claimant.
6. Respondent Robert Petrocine is assessed forum fees in the amount of \$1,200.00 payable to the National Association of Securities Dealers, Inc. in accordance with Section 43 of the Code of Arbitration Procedure.

OTHER ISSUES

Based upon the evidence submitted in Arbitrator's Exhibit No. 1 regarding hearing notices to the parties, this arbitration panel finds that proper notice exists as well as jurisdiction pursuant to Section 12(a) of the Code of Arbitration Procedure, over Respondent Philips, Appel & Walden Inc. Pursuant to Section 29 of the Code of Arbitration Procedure, this arbitration panel proceeded with the hearing in its absence.

CONCURRING ARBITRATOR



Stuart Winkler

Dated: April 18, 1990

1. Respondent Robert Petrocine is hereby liable to the Claimant and shall pay Six Thousand and Fifty-Two Dollars and Ninety-Three Cents (\$6,052.93).

2. Respondent Robert Petrocine is also liable to the Claimant for attorneys' fees in the amount of Two Thousand Five Hundred Dollars and Zero Cents (\$2,500.00).

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CONCURRING ARBITRATOR


George G. Janis

Dated: April 16, 1990

1. Respondent Robert Petrocine is hereby liable to the Claimant and shall pay Six Thousand and Fifty-Two Dollars and Ninety-Three Cents (\$6,052.93).
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CONCURRING ARBITRATOR


Yale Chenen

Dated: April 16th, 1990