

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between		
Richard Tom	Claimant	
vs.		AWARD
East/West Securities and Q & R Clearing Corp.	Respondent	CASE NO. 89-00303

SUMMARY OF ISSUES

This case was filed on January 30, 1989. Claimant alleged Respondents East/West Securities ("EAST/WEST") were negligent when, after informing him of a margin call in his account, they failed to credit the checks he had delivered to them and liquidated his margin positions in the panic selling of October 19, 1987. Claimant further alleged East/West sold more stocks than necessary to cover the margin call. Claimant alleged Q & R breached their fiduciary duty to him by instructing East/West to liquidate his margin positions.

Respondents denied they acted negligently or improperly. They asserted the margin agreement with Claimant permitted them to sell securities to meet margin calls. They denied the oversale of securities caused Claimant damage, since those securities declined in price after sale.

DAMAGES AND RELIEF REQUESTED

Claimant requested damages of \$71,528.50 plus interest. Respondents Q&R and EAST/WEST requested dismissal of all claims brought by Claimant, and an award of attorneys' fees and costs to each of them.

DAMAGES AND RELIEF AWARDED

On January 11 & 12, 1990 in San Francisco, California, the undersigned arbitrators heard the controversy in four sessions between the parties as set forth in submissions to arbitration signed by Claimant on January 25, 1989 and on March 22, 1989, and by Respondent EAST/WEST on June 16, 1989. Respondent Q&R did not file a submission agreement, but did file an answer. Q&R is properly subject to the jurisdiction of the National Association of Securities Dealers, Inc. ("NASD") by virtue of its

membership. 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. Each and every claim of Claimant is dismissed.
2. The parties shall each bear their respective costs including attorneys' fees.
3. Pursuant to Section 43 of the NASD Code of Arbitration Procedure, the NASD shall retain the \$500.00 filing fee previously deposited by Claimant. Forum fees are assessed against the parties as follows: \$500.00 against Claimant; \$500.00 against EAST/WEST; and \$500.00 against Q&R. Forum fees are payable to the NASD through its representative.

PRESIDING ARBITRATORS

DATE SERVED: 1/30/90


James M. Knowles

Terry K. Aleshire

Thomas W. Borden