

Vol. 2 No. 3  
Year 90  
9002178

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In The Matter of The Arbitration Between

L. E. DOXSEE

Claimant(x)

Award

vs.

NASD No. 89-00332

DREYFUS SERVICE CORPORATION

MELLON FINANCIAL SERVICES CORPORATION

Respondent(s)

SUMMARY OF ISSUES

This case was filed on with the NASD on February 6, 1989.

Claimant alleged Respondents failed to execute his telephone order of October 30, 1987 to liquidate sufficient shares of General Money Market Fund to purchase 7500 shares of Dreyfus Strategic Aggressive Investing, L.P. Claimant alleged that Respondents' failure constituted negligence. Claimant also alleged that Respondents acted in bad faith with respect to his attempts, when he discovered the error in April 1988, to reconstruct the events surrounding his telephone order of October 30, 1987.

Respondents replied that they bear no liability because there was no negligence in the telephone transaction, and even if there had

9002178

been negligence, a confirmation of the telephone transaction was mailed to Claimant's home address within established time requirements. The price of the Strategic Aggressive shares was less than the October 30 price at the time the confirmation was received. Respondents further asserted that Claimant had a duty to read his confirmations within a reasonable period of time.

DAMAGES AND RELIEF REQUESTED

Claimant requested damages of \$24,381.09, plus interest, costs and bad faith damages of \$1.00. Respondents requested dismissal of all claims.

Both sides stipulated at the hearing to a damage calculation of \$19,731, representing the original claim of \$24,381 less a compromise figure of \$4,650 for interest Claimant received.

Claimant dropped his claim for bad faith at the hearing.

9002178

DAMAGES AND RELIEF AWARDED

On February 8, 1990 in San Francisco, California,  
the undersigned arbitrators heard the controversy in 2 sessions between  
the parties as set forth in submissions to arbitration signed by  
Claimant(s) on February 2, 1989

and by Respondent(s) Dreyfus Service Corporation on May 9,  
1989, and by Mellon Financial Services Corporation  
on May 11, 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 are jointly and severally  
liable for and shall pay to Claimant  
the amount of \$1581.00

9002178

~~\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_~~

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

3. Pursuant to Section 43 of the National Association of Securities Dealers, Inc. ("NASD") Code of Arbitration Procedure, the NASD shall retain/~~refund~~ the \$400<sup>00</sup> filing fee previously deposited by the Claimant as an assessment of forum fees by the arbitrators. Respondents are also assessed jointly and severally forum fees in the amount of \$400<sup>00</sup>, payable to the NASD through its staff representative.

9002178

OTHER ISSUES

---

---

---

---

---

---

---

---

—  
—  
—

ARBITRATORS DISSENTING

---

---

SFC  
2/15/90