

Arbitration

National Association of
Securities Dealers, Inc.
425 California St., Rm. 1400
San Francisco, CA 94104
(415) 781-3343
FAX: (415) 362-9946

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)
Joseph M. Almand

89-00529

Name of Respondent(s)
Donaldson Lufkin & Jenrette Securities
Black & Company, Inc.
Lawrence Stuart Black
Dennis B. Reiter
Neil James Koranda

Consolidated Case

Name of Claimant(s)
Laurie Jean Murphy
Susan Almand-Myers
Beth Ann Wesley
Stuart M. Almand
Joseph M. Almand

99-01694

Name of Respondent(s)
Black and Company, Inc.
Lawrence Stuart Black
Dennis Reiter
Neil Koranda

SUMMARY OF ISSUES

89-00522

This case was filed with the National Association of Securities Dealers, Inc. ("NASD") on April 19, 1989.

Respondent Donaldson, Lufkin and Jenrette denied the existence of any fiduciary duty to Claimant. Respondents Black and Company, Black, Reiter, and Koranda alleged that Claimant's account was not churned, that the transactions of which Claimant complains were the direct result of his own directions to Koranda, and that there was no lack of supervision.

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Claimant alleged that Respondent Koranda "churned" Claimant's securities account, that Mr. Koranda facilitated the churning by illegal margining activity in Mr. Almand's account, that Respondent Donaldson, Lufkin and Jenrette Securities Corp. ("DLJ"), Black and Company, and Messrs. Black and Reiter failed to supervise Mr. Koranda adequately and that DLJ had a fiduciary duty to Mr. Almand to alert him to the significance of what was happening to his account.

89-01624

This case was filed with the National Association of Securities Dealers, Inc. ("NASD") on August 10, 1989.

Claimant alleged that Mr. Koranda breached his fiduciary duties to Claimants by negligently causing a margin call, by failing to disclose facts to Claimants, and by wrongfully causing the transfer of Oregon bonds from one account to another. Claimants further alleged that Mr. Koranda acted within the scope and authority of his position as an employee and agent of Black and Company and that Black and Company is therefore liable for the damages caused to Claimants by Mr. Koranda, and that Respondents Black and Reiter failed in their duty to supervise Mr. Koranda so as to prevent such misconduct on his part and they are personally liable to Claimants for the damages suffered by them.

Respondents denied that there was any impropriety in connection with the transfer of the Oregon Revenue Bonds, and that there was no concealment or misrepresentation of any material facts. Respondents alleged that they acted in reliance on the written authorizations received by claimants and that claimants should be stopped from now disclaiming those authorizations.

DAMAGES AND RELIEF REQUESTED

89-00529

Claimant demanded the following relief:

1. that DLJ, Black and Company, Black, Reiter, and Koranda jointly and severally be ordered to pay him:
 - A. Excessive commissions and markups charged to him in the amount of at least \$32,000.00;

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- B. Margin interest charged to him in the amount of at least \$8,870.00 (during the period 10/86 to 7/88) and all margin interest charged after 7/88;
 - C. The amount of all margin debt incurred on his account (which, as of 1/31/89 was approximately \$71,165.00)
 - D. The amount of any decline in the value of the stocks in Mr. Almand's account due to the churning thereof as measured by a comparison with the performance of one or more standard stock market indices.
2. that Black and Company be ordered to pay to him both the margin interest charged to him prior to 1987 (i.e. \$468.48) as well as its capital gains of \$25,567.50 on principal transactions in which it sold securities from its inventory to Mr. Almand.
3. Punitive damages of \$360,000.00 as follows:
- A. As to DLJ, in view of its net worth of \$347,972,000.00 as of June 30, 1988, the amount of \$150,000.00 (being less than 1/10 of 1% of such net worth);
 - B. As to Chalsty, the amount of \$25,000.00;
 - C. As to Castle, the amount of \$25,000.00;
 - D. As to Hawn, the amount of \$25,000.00;
 - E. As to Donnelly, the amount of \$25,000.00;
 - F. As to Black and Company, in view of its net worth of some \$1,700,000.00 as of May, 1988, the amount of \$35,000.00 (which is approximately 2% of such net worth);
 - G. As to Koranda, the amount of \$25,000.00;
 - H. As to Black, the amount of \$25,000.00;
 - I. As to Reiter, the amount of \$25,000.00.

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4. That DLJ be ordered to cancel all margin debt encumbering Mr. Almand's securities (if the other respondents are not ordered to pay Mr. Almand the amount of such debt) and forthwith to release DLJ's liens and all other encumbrances on his securities; and to transfer all such securities into Mr. Almand's name and deliver them to him.

And for his attorneys' fees and arbitration costs and fees, and such other and further relief as to the arbitrators may seem just.

Respondent DLJ requested that the Statement of Claim be dismissed as asserted against DLJ, prior to the hearing. In the alternative, DLJ denied all wrongdoing by way of answer and reserved the right to defend at hearing.

89-01694

Claimants requested that Respondents, jointly and severally, be ordered either:

- A. to pay Claimants the fair market value of the Oregon Bonds as of the date of their wrongful transfer out of the joint account (\$28,787.50) plus interest at the Oregon legal rate of 9% per annum

OR

- B. to pay DLJ such sums as may be necessary to effectuate a release of DLJ's lien upon the bonds so that the bonds may be re-transferred to the Claimant's joint account, which continues to exist.

Claimants also asked for their attorneys' fees and costs.

DAMAGES AND RELIEF AWARDED

Prehearing conferences were held in this matter on April 9, 17 and 23, consisting of three sessions.

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

89-01694

9. Respondents Black and Company, Inc., Dennis Reiter, and Neil Koranda are liable for and shall pay to Claimants the sum of Twenty-Eight Thousand Seven Hundred Eighty-Seven Dollars and No Cents (\$28,787.00), plus simple interest at the rate of 9% per annum from October 26, 1987 until paid. Said liability is joint and several.
10. Each and every claim against Respondent Lawrence Stuart Black is dismissed.
11. The parties shall each bear their respective costs including attorneys' fees.

89-00529 and 89-01694

1. In accordance with Section 43 of the NASD Code of Arbitration Procedure, the NASD shall retain the \$750.00 filing fee previously deposited by the Claimants in case 89-00529 as an assessment of forum fees by the arbitrators, and shall retain the \$400.00 filing fee previously deposited by the Claimants in case 89-01694. Respondents Black and Company, Inc., Neil Koranda, and Dennis Reiter are jointly and severally liable for reimbursing Claimant Joseph Almand the \$750.00 filing fee in case 89-00529, and for reimbursing the Claimants the \$400.00 filing fee in case 89-01694. Furthermore, Respondent Black and Company, Inc. is solely liable for forum fees in the amount of \$14,750.00 to be paid directly to the National Association of Securities Dealers, Inc.

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On May 1 and 2, July 19 and 20, and August 1, 1990 the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant Joseph Almand on February 15 and May 24, 1989, by Claimants Laurie Jean Murphy, Susan Almand-Myers, Beth Ann Wesley and Stuart M. Almand on May 24, 1989, by Respondent Black and Company, Inc. on May 2 and July 12, 1989, by Respondent Donaldson Lufkin and Jenrette on May 2, 1989, by Respondent Laurence Stuart Black on April 12 and July 12, 1989, by Respondent Dennis Reiter on April 12 and July 12, 1989, and by Respondent Neil James Koranda on April 12 and August 3, 1989.

The hearing was conducted in Portland, Oregon and lasted eleven 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:

89-00529

1. Respondents Black and Company, Inc., Dennis Reiter, and Neil James Koranda are liable for and shall pay to Claimant Joseph Almand the sum of Thirty-Nine Thousand Five Hundred Fifty-One Dollars and No Cents (\$39,551.00). Said liability is joint and several.
2. Respondent Black and Company, Inc. is liable for and shall pay to Claimant Joseph Almand the sum of Twenty-Five Thousand Four Hundred Eighty-Six Dollars and No Cents (\$25,486.00). Said liability is sole liability.
3. Based upon applicable Oregon law, Respondent Black and Company, Inc. is liable for and shall pay to Claimant Joseph Almand punitive damages in the amount of Thirty-Five Thousand Dollars (\$35,000.00).
4. Based upon applicable Oregon law, Respondent Neil Koranda is liable for and shall pay to Claimant Joseph Almand punitive damages in the sum of Five Thousand Dollars (\$5,000.00).
5. Based upon applicable Oregon law, Respondent Dennis Reiter is liable for and shall pay to Claimant Joseph Almand punitive damages in the sum of Twenty-Five Thousand Dollars (\$25,000.00).
6. Each and every claim against Respondents Donaldson, Lufkin and Jenrette is dismissed.
7. Each and every claim against Respondent Lawrence Stuart Black is dismissed.

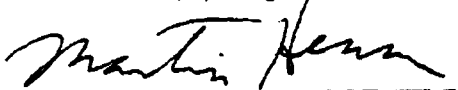
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OTHER ISSUES

At the hearing on May 1, 1990 and also at the conclusion of Claimants' case in chief, counsel for Donaldson, Lufkin and Jenrette made motions to dismiss said Respondent as a party. The arbitration panel denied these motions when made, but as stated above, dismissed each and every claim against DLJ as part of this Award.

Arbitrator(s) Signature



Martin Henner

Justine Fischer

Walter Middlecamp

Arbitration

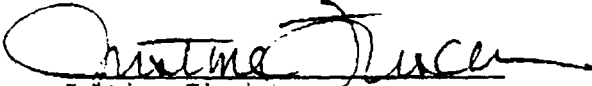
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