

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Ross and Mabel Rogers

Claimants

vs.

Drexel Burnham Lambert, Inc.,  
Jerry Gettinger and George  
Arterberry

Respondents

AWARD

CASE NO. 89-00717

SUMMARY OF ISSUES

This case was filed with the National Association of Securities Dealers, Inc. ("NASD") on March 15, 1989. Claimants alleged unsuitability and churning with respect to transactions in Claimants' account including stock purchases and transactions in income trusts. Respondents denied any wrongdoing or liability to Claimants and alleged: 1) that Claimants are sophisticated investors and were fully aware of the risks associated with the transactions in their account; 2) that any losses are attributable to market conditions and Claimants' own investment decisions; 3) that Respondents at all times acted properly and with good faith; 4) that the claim is barred by waiver, estoppel, and ratification; and 5) that Respondents at all times acted in compliance with Claimants' instructions and investment objectives.

DAMAGES AND RELIEF REQUESTED

Claimants requested an award of \$9,088.00 actual damages, \$985 interest, and \$8,338 punitive damages. Respondents requested that the claim be dismissed and that costs be awarded in Respondents' favor.

DAMAGES AND RELIEF AWARDED

On May 11, 1990, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimants on April 10, 1989, by Respondent Drexel Burnham Lambert, Inc. on June 27, 1989, by Respondent Jerry Gettinger on April 10, 1989 and by Respondent George Arterberry on June 28, 1989. The hearing was conducted in Los Angeles, California and lasted two 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. Respondents are liable for and shall pay to Claimants the sum of Nine Thousand, Eight Hundred Thirty-Seven Dollars and No Cents

(\$9,837.00), plus interest at the rate of 9% per annum from September 6, 1988 until the date the award is paid. Said liability is joint and several.

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

3. In accordance with Section 43 of the NASD Code of Arbitration Procedure, the NASD shall retain the \$400.00 filing fee previously deposited by the Claimant as an assessment of forum fees by the arbitrators. In addition, Respondents are also assessed fees of \$400.00, representing charges as follows:

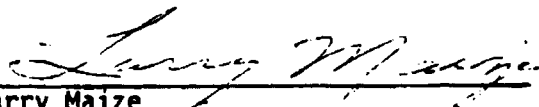
a. \$400.00 for forum fees. Said liability is joint and several.

PRESIDING ARBITRATORS

DATE SERVED: 06/08/90

Herman R. Friedberg

Frank Milton Hodgson

  
Larry Maize