

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

IN THE MATTER OF THE ARBITRATION BETWEEN :  
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Jay Phillips :  
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 : Claimant : Case #89-01021  
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vs. :  
 : AWARD  
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Dean Witter Reynolds, Inc. and Alex Moore :  
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 : Respondents :  
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### CASE SUMMARY

Claimant Jay Phillips ("Phillips") initially commenced this arbitration proceeding on April 3, 1989 against Respondents Dean Witter Reynolds, Inc. ("Dean Witter") and Alex Moore ("Moore"). Claimant alleges that Respondents are liable for certain losses incurred in the account while Moore was employed by Dean Witter. Claimant alleges that at the time of purchase of 5000 shares of Chemfix Technologies, Inc. ("Chemfix"), Claimant placed a stop loss order at \$8.00 per share on these securities as well as an additional 1000 shares of such securities. Claimant alleges that Moore did not place a stop loss on the shares of Chemfix and as a consequence lost \$20,034.00, the amount representing the difference between the amount received on the sale of 6,000 shares of Chemfix and the amount Claimant would have received had the 6,000 shares been sold at \$8.00 a share.

Respondents deny any breach of duty and liability with respect to the account. Respondents essentially contend that Claimant was advised that a stop loss order could not be placed on Chemfix in that the stock was an over-the-counter security. Respondents further assert that Claimant contrary to his claim held on to the Chemfix stock several days after Claimant was advised that the stock traded below \$8.00 a share on October 21, 1987. Additionally, Respondents assert that Claimant assumed responsibility for the market conditions and is responsible for the consequence of that decision.

RELIEF REQUESTED

Claimant requests an award in the amount of \$20,034.00 plus attorney fees and costs of the arbitration.


Respondents request that the claim be denied in its entirety, attorney fees and costs of the arbitration.

AWARD

On December 8, 1989, said dates representing two hearing sessions in Atlanta, Georgia, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant and Respondent hereto. 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. The claim of Claimant Jay Phillips against Respondents Dean Witter, Reynolds, Inc. and Alex Moore shall be denied.
2. The parties shall each bear their respective costs including attorney fees.
3. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$400.00 filing fee previously deposited by the Claimant as costs of the initial hearing session conducted in this matter.

CONCURRING ARBITRATORS



A. KEITH LOGUE



HARTWELL D. HOOPER



RALPH BORNHEIM

Dated: January 23, 1990