

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between :
: :
Jesaka Neumann : AWARD
: :
Claimant : #89-01194
vs. : :
: :
Tucker, Anthony & R.L. Day, Inc. :
Tom Donaldson :
Respondents :
: :

Case Summary

Claimant Jesaka Neumann alleged that Respondents Tucker, Anthony & R.L. Day, Inc. and Tom Donaldson placed her account in unsuitable and speculative stocks which were not in line with her stated investment objectives. Claimant alleged that Respondents churned her account which caused Claimant to lose substantial amount of her investment.

Respondents maintained that Claimant never expressed a desire to eliminate all risks. Respondents maintained that all investments in Claimant's account were suitable and that Claimant had expressed her desire to have a growth oriented account. Respondents maintained that Claimant has not been damaged as Claimant's account had made money not lost money. Respondents also maintained that over the life of the account Claimant made numerous withdrawals. Respondents maintained that Claimant's account was not churned and was handled appropriately in accordance with Claimant's investment objective.

Relief Requested

Claimant requested compensatory damages in the amount of \$30,000.00; for punitive damages in the amount of \$15,000.00; and, for reasonable attorney's fees and all costs of these proceedings.

Respondents requested that Claimant's claim be dismissed in its entirety with costs assessed against Claimant.

Award

On Tuesday, May 8, 1990, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant on April 14, 1989, by Respondent Tucker Anthony & R.L. Day, Inc. on August 22, 1989 and by Respondent Tom Donaldson on August 18, 1989. The hearing was held in Louisville, Kentucky and consisted of one session. 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. That Respondents jointly and severally are liable to the Claimant and shall pay to the Claimant the sum of \$7,000.00; no interest is awarded on this amount.
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 refund the \$400.00 filing fee previously deposited by the Claimant.
4. Respondents are assessed forum fees in the amount of \$400.00 payable to the NASD, Inc. through its staff counsel in accordance with Section 43 of the Code of Arbitration Procedure.

CONCURRING ARBITRATORS

/s/
James P. McCrocklin

/s/
David Fannin

/s/
Phillip Barry Wise

2nd cert 5/17/90