

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between		}	AWARD
Sadie Appleman, individually and as Trustee of the Sadie Appleman Family Trust	Claimant		
vs.			
Boettcher & Company and Craig Bailey	Respondents	}	CASE NO. 89-02516

SUMMARY OF ISSUES

This case was filed with the National Association of Securities Dealers, Inc. ("NASD") on September 11, 1989. Claimant Sadie Appleman alleges that Respondent Craig Bailey, while in the employ of Respondent Boettcher & Company, induced Claimant into making unsuitable trades in her account. Said trades included the sales, purchases and switches of stocks and mutual funds. Claimant alleges that the trades were unsuitable in light of Ms. Appleman's advanced age and her investment objectives which were the production of income and long-term capital growth.

Claimant also alleges that the sales of certain securities in her account generated a capital gain which caused a tax liability. Claimant also alleges that the activity in her account was excessive and said excessive trading could have been detected and prevented, had Respondent Boettcher & Company exercised proper supervision of Respondent Bailey.

Respondents, answering jointly, state that all the trades made in Ms. Appleman's account were made with the understanding that Ms. Appleman was receiving professional advice from her accountant, attorney and from a family member who was experienced in the securities industry.

DAMAGES AND RELIEF REQUESTED

Claimant seeks to recover \$106,708.00 representing the diminution of the value of her holdings; \$14,187.00 paid as commissions; interest; attorneys' fees; punitive damages; post-judgment interest; and costs.

Respondents seek dismissal of the claim in its entirety plus costs.

DAMAGES AND RELIEF AWARDED

On May 15 and 16, 1990, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by

Claimant Sadie Appleman on August 28, 1989, by Respondent Boettcher & Company on December 14, 1989 and by Respondent Craig Bailey on December 19, 1989. The hearing was conducted in Los Angeles, California and lasted four 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 Boettcher & Company and Craig Bailey are jointly and severally liable for and shall pay to Claimant Sadie Appleman, individually and as Trustee for the Sadie Appleman Family Trust, the sum of One Hundred Nine Thousand, Three Hundred Sixty-Seven Dollars and No Cents (\$109,367.00).

2. Respondents are also jointly and severally liable for and shall pay to Claimant interest of 8% <sup>per annum</sup> on the sum of Forty-Three Thousand, Six Hundred Two Dollars and No Cents (\$43,602.00) from and after December 31, 1988 until paid.

3. Respondents are jointly and severally liable for and shall pay to Claimant \$750.00 as reimbursement of the NASD filing fee.

4. Claimant's claim for punitive damages is denied.

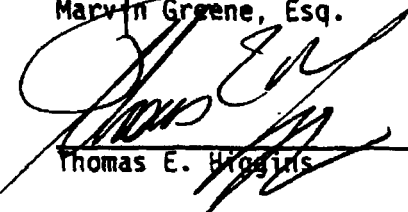
5. The parties shall each bear their respective costs including attorneys' fees.


6. 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 Claimant as an assessment of forum fees by the arbitrators. In addition, Respondents Boettcher & Company and Craig Bailey are also jointly and severally assessed \$1,500.00 for forum fees.

PRESIDING ARBITRATORS

DATE SERVED: June 22, 1990

  
Marvin Greene, Esq.

  
Thomas E. Higgins

  
Luis R. Ruiz