

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Gerald W. Kralik

Claimant

vs.

Dean Witter Reynolds, Inc.

Respondent

AWARD

CASE NO. 89-02630

Members of the Arbitration Panel:

SUMMARY OF ISSUES

This case was filed on September 20, 1989. Claimant alleged unauthorized trading in connection with purchases and sales of stocks and options in Claimant's account between July, 1988 and February, 1989. Respondent alleged that Claimant ratified the disputed trades, that the claim is barred by laches, that the claim is barred by estoppel and waiver, and that Claimant failed to minimize his damages.

DAMAGES AND RELIEF REQUESTED

Claimant requested: 1) restoration of 540 shares of British Airways ADR's to his account; 2) \$21,426.68 as a credit to his account; and 3) expenses, costs, and punitive damages.

DAMAGES AND RELIEF AWARDED

On May 15, and June 28 and 29, 1990 in San Francisco, California, the undersigned arbitrators heard the controversy, in five sessions between the parties as set forth in submissions to arbitration signed by Claimant on September 9, 1989 and by Respondent on December 4, 1989. 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. Respondent Dean Witter Reynolds, Inc. is directed to restore Five Hundred Forty (540) shares of British Airways American Depository Receipts into Claimant's account with Dean Witter. Said restoration shall be made within ten (10) days of the date of this award.

2. Respondent is liable for and shall pay to Claimant the sum of Twenty Thousand, Seven Hundred Seventy Dollars and No Cents (\$20,770.00), inclusive of interest through June 29, 1990, plus interest at the rate of 10% per annum until paid.

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

4. In accordance with Section 43 of the National Association of Securities Dealers, Inc. ("NASD") Code of Arbitration Procedure, the NASD shall retain the \$400 filing fee previously deposited by the Claimant as an assessment of forum fees by the arbitrators. Respondent is liable for reimbursing Claimant said \$400 filing fee. Further, Claimant is assessed forum fees, pursuant to Section 43, in the amount of \$1,200.00, to be paid directly to the National Association of Securities Dealers, Inc., and Respondent is assessed, pursuant to Section 43, forum fees in the amount of \$400.00, to be paid directly to the National Association of Securities Dealers, Inc.

OTHER ISSUES

At the hearing on May 15, 1990, the arbitration panel granted Claimant's motion to amend his claim to include an allegation of lack of supervision.

DATE SERVED: 07/16/90

