

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between:

Name of Claimant(s)

John Drum Jr.

90-00417

Name of Respondent(s)

Bateman Eichler, Hill Richards, Inc.
Charles Southall

SUMMARY OF ISSUES

This case was filed with the National Association of Securities Dealers, Inc. ("NASD") on May 2, 1990.

Claimant John Drum, Jr., (Drum) claims against Respondent Charles Southall (Southall), while employed with Respondent Bateman, Eichler, Hill, Richard, Inc. (Behr) as follows:

Drum opened a brokerage account as Behr with Southall as his account executive. At meetings with Southall, Drum stated that his prime investment objectives were conservative, safe, growth-oriented investments that would preserve his principal for subsequent retirement. Southall promised that Claimant's account would yield an annual return of over 10 percent and would double in less than seven years. Drum also opened a margin account because he intended to periodically borrow against his investments to finance his business.

Drum alleges that he did not grant any trading authority to Southall and in spite of this, Southall made numerous unauthorized, unsuitable and excessive trades.

Said pattern of conduct eventually led to Drum's account suffering a loss of over \$80,000.00.

Respondents assert that Drum and Southall worked out an investment strategy by placing a significant portion of his portfolio in bonds and a smaller portion in quality stocks. The portfolio would be handled in a conservative income-producing basis, but, consistent with Drum's desire for growth, quality growth stocks would be sought.

The losses that were incurred resulted from one position in the common stock of a highly regarded company that did not fare well in the market. Drum was informed of the potential risk in this position and acquiesced to the purchase.

Respondents claim that Drum is a wealthy, sophisticated investor who knew well what was being done with his portfolio and that losses were incurred by market reversals and not to any impropriety or wrongdoing by Respondents.

DAMAGES AND RELIEF REQUESTED

Claimant seeks to recover in excess of \$80,000.00 representing losses in his account, punitive damages, costs and attorney's fees.

Respondents seek dismissal of the claim in its entirety and deny each and every allegation made.

DAMAGES AND RELIEF AWARDED

On October 11, 12, and 15, 1990 the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant John Drum, Jr. on February 2, 1990 and by Respondent Bateman, Eichler, Hill, Richard, Inc. on March 12, 1990 and by Respondent Charles Southall on April 10, 1990.

The hearing was conducted in San Francisco, California and lasted six 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 Bateman, Eichler, Hill, Richards, Inc. and Charles Southall are jointly and severally liable and shall pay to Claimant John Drum, Jr. the sum of Thirty Thousand Dollars and No Cents (\$30,000.00).
2. Claimants claim for interest on said amount is denied.
3. The parties shall each bear their respective costs including attorneys' fees.

4. In accordance with Section 43 of the NASD Code of Arbitration Procedure, the NASD shall refund the \$500.00 filing fee previously deposited by the Claimant. In addition, Respondents are jointly and severally assessed fees of \$2,500.00 for forum fees, to be made payable directly to the National Association of Securities Dealers, Inc.

Arbitrator(s) Signature

Andrew M. Smith



Charles W. Tuckman

Mario Henry Barsotti