

N.A.S.D. AWARD

Arbitration

®
NATIONAL ASSOCIATION OF SECURITIES DEALERS

National Association of
Securities Dealers, Inc.
One East Broward Boulevard
Suite 1000
Ft. Lauderdale, Florida 33301
(305) 522-7391

In the Matter of the Arbitration Between

Name of Claimant(s)

Claire Keneally

CASE #90-00735

Name of Respondent(s)

Sally Hooper

Heard before the Arbitrator:

John P. Cullen, Esq.

Public Arbitrator

CASE SUMMARY

This claim was initiated by a Statement of Claim filed with the National Association of Securities Dealers, Inc. ("NASD") on March 11, 1990. Claimant, Claire Keneally ("Keneally"), alleged that Respondent, Sally Hooper ("Hooper"), was liable for: unnecessarily switching mutual funds; churning; negligence; and unauthorized trades. Claimant alleged that: certain shares of a mutual fund were sent to another client by mistake; her account was erroneously placed on margin without her consent; Respondent purchased three stocks for Claimant after Claimant told her to stop buying stocks; and Respondent was instructed to change all of Claimant's funds to pay cash instead of reinvesting and did not do so.

In a Statement of Answer filed with the NASD on June 4, 1990, Respondent alleged that: all trades were executed with Claimant's knowledge and approval; Respondent did not unnecessarily switch funds; no commissions were received when mutual funds were transferred internally from one Putnam fund to another; all stocks purchased were done so in accordance with Claimant's investment objectives; Respondent did not churn the account; and one error was due to American Capital Government Securities Fund overpaying Claimant and debiting the brokerage firm where Respondent was employed and where Claimant had her account; and the firm in turn debited Claimant's account for the overpayment and placed her account on margin to secure the debit.

Respondent asserted a counterclaim alleging that Claimant/Counter Respondent is liable for making defamatory and libelous statements.

In a statement of reply filed with the NASD on June 11, 1990, Claimant/Counter Respondent alleged that the statements made in her original claim are all valid complaints.

RELIEF REQUESTED

Claimant requested damages in the amount of \$27,955.00 plus costs and dismissal of the counterclaim.

Respondent requested dismissal of the claim and counterclaimed for damages of \$30,000.00.

AWARD

On March 11, 1991, in Tampa, Florida, during a hearing lasting three (3) sessions, the undersigned arbitrator heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant, on February 11, 1990 and signed by Respondent on May 31, 1990.

After considering the pleadings, the testimony, and the evidence presented at the hearing, the arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's damages amounted to \$15,012.97.
2. Respondent, Hooper, is found liable and shall pay to the Claimant the amount of \$7,506.49 inclusive of interest.
3. Respondent, Hooper, is also found liable and shall pay to the Claimant the further amount of \$700.00 for expert witness costs.
4. Claimant/Counter Respondent, Keneally, is found not liable and, therefore, all claims against her are hereby dismissed.

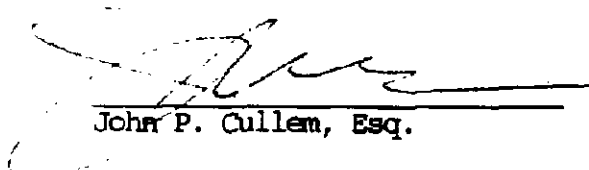
FORUM FEES

5. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Arbitrator has assessed forum fees in the amount of \$1,200.00 (3 sessions x \$400.00 per session). Claimant is hereby assessed \$400.00 for which the NASD shall retain the \$400.00 previously deposited by the Claimant in full satisfaction thereof. Respondent, Hooper, is hereby assessed \$800.00 payable to the National Association of Securities Dealers, Inc. The National Association of Securities Dealers, Inc. shall retain the \$200.00 previously deposited by Respondent in partial satisfaction thereof.

6. The parties shall each bear all costs and expenses incurred by them in connection with this proceeding, including attorney's fees.

Fees are payable to the National Association of Securities Dealers, Inc.

Arbitrator Signature



John P. Cullem, Esq.

Date of Decision: April 9, 1990