

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Joy Bailey

CASE#90-00821

Name of Respondent(s)

Judy M. Petrovich

Heard before the Arbitrator:

James R. Kennedy, Jr., Esq.

CASE SUMMARY

This claim was filed with the National Association of Securities Dealers, Inc. (NASD) on March 19, 1990. The hearing was conducted in Tampa, Florida on December 11, 1990 with a total of two (2) sessions.

Claimant, Joy Bailey ("Bailey"), alleged that Respondent, Judy M. Petrovich ("Petrovich"), was liable for: Churning; recommending transactions which involved a high degree of risk, which transactions were unsuitable for Claimant; executing unauthorized trades; failing to follow Claimant's instructions; breach of fiduciary duty; negligence; and breach of contract.

Claimant alleged that: Respondent's trading in options for Claimant's account was unsuitable in light of Claimant's investment objectives and financial condition; and Respondent failed to follow Claimant's instructions to cease and desist such transactions.

Respondent failed to file an Answer but appeared at the hearing and defended by alleging that: it was E.F. Hutton's responsibility for liquidating the account in an imprudent manner; Respondent did nothing wrong; Claimant was familiar with options; and the losses were due to the market crash of October 1987.

RELIEF REQUESTED

Claimant requested damages in the amount of \$15,770.30 plus interest, punitive damages, costs and attorney's fees.

Respondent requested dismissal of the claim.

AWARD

On December 11, 1990, the undersigned arbitrator heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant on March 8, 1990, and not signed by Respondent, Petrovich, as required pursuant to Section 12 of the NASD Code of Arbitration Procedure ("Code"), Respondent, Petrovich, being a person associated with an NASD, Inc. member firm, E.F. Hutton, Inc., at the time this controversy arose. The arbitrator 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. Based upon the facts and evidence that was presented at the hearing this arbitrator has found that Claimant was damaged in the amount of Seven Thousand Nine Hundred Thirty Nine and 35/100 (\$7,939.35) Dollars. Respondent, Petrovich, is found liable and shall pay to the Claimant the amount of Three Thousand Nine Hundred Sixty Nine and 68/100 (\$3,969.68) Dollars, plus interest at the rate of 16 per annum (from October 19, 1987 to January 19, 1991) in the amount of Seven Hundred Seventy Four and 58/100 (\$774.58) Dollars for a total due to the Claimant of Four Thousand Seven Hundred Forty Four and 26/100 (\$4,744.26) Dollars. Any payment in excess of Four Thousand Seven Hundred Forty Four and 26/100 (\$4,744.26) Dollars by E.F. Hutton to Claimant is a set off against this Award and shall be credited to Respondent, Petrovich.
2. Claimant's request for attorney's fees, costs, and punitive damages are denied.
3. Pursuant to Section 43 of the Code of Arbitration Procedure, the Arbitrator has assessed forum fees in the amount of Eight Hundred and 00/100 (\$800.00) Dollars (2 sessions x \$400 per session). Claimant is hereby assessed Four Hundred and 00/100 (\$400.00) Dollars for which the NASD shall retain the Four Hundred and 00/100 (\$400.00) Dollars previously deposited in full satisfaction thereof. Respondent, Petrovich, is hereby assessed Four Hundred and 00/100 (\$400.00) Dollars payable to the National Association of Securities Dealers, Inc.
4. The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including attorney's fees.

OTHER ISSUES

None.

ARBITRATOR CONCURRING


James R. Kennedy, Jr., Esq.

Dated: January 23, 1991