

## N.A.S.D. AWARD

## NATIONAL ASSOCIATION OF SECURITIES DEALERS

National Association of  
Securities Dealers, Inc.  
NASD Financial Center  
33 Whitehall Street  
New York, N.Y. 10004  
FAX (212) 858-4389

## In the Matter of the Arbitration Between

Name of Claimant

Alex C. Yarnell

90-01125

Name of Respondent

Legg Mason Wood Walker, Inc.

REPRESENTATION

For Claimant Alex C. Yarnell ("Claimant"): David Weinstein, Kohn, Savett et al.

For Respondent Legg Mason Wood Walker, Inc. ("LMWW"): Dana N. Pescosolido, of Fairbanks, Gault et al.

CASE INFORMATION

Statement of Claim filed: April 5, 1990.

Claimant's Submission Agreement signed on: April 3, 1990.

Statement of Answer filed by Respondent LMWW on: there was no date on the Statement of Answer; however, it was received by the NASD on the June 25, 1990.

Respondent LMWW's Submission Agreement signed on: June 18, 1990.

HEARING INFORMATION

Hearing Dates/Sessions: November 19, 1991/2 sessions

November 29, 1991/2 sessions

January 27, 1992/2 sessions

Hearing Location: NASD, Philadelphia, PA.

CASE SUMMARY

Claimant alleged Respondent recommended unsuitable investments in options; engaged in unauthorized trading; violated Section 10(b) of the 1934 Securities Exchange Act and Rule 10b-5; committed common law fraud; negligent and intentional misrepresentation; and breached the fiduciary duty it owed to Claimant.

Respondent denied it engaged in unsuitable investments; unauthorized trading; violations of the Securities Exchange Act; common law fraud; negligent and intentional misrepresentation; and breached the fiduciary duty

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AWARD  
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it owed Claimant.

RELIEF REQUESTED

Claimant requested: actual damages in the amount of \$56,202.28 (inclusive of margin interest) and costs.

Respondent requested: the Statement of Claim be dismissed.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASD.

AWARD

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

- 1- The claim of Claimant Alex C. Yarnall is denied;
- 2- All other claims are denied;
- 3- The parties shall each bear their own costs, including attorneys' fees.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the NASD shall retain the \$150.00 non-refundable filing fee previously deposited by Claimant and the following Forum Fees are assessed.

6 sessions X \$500.00 = \$3,000.00

Forum fees Assessed Against:


- 1- Claimant, in the amount of \$1,500.00. However, Claimant shall use his \$350.00 hearing session deposit to offset part of this amount, therefore, the amount due and owing equals \$1,150.00;
- 2- Respondent, in the amount of \$1,500.00.

AWARD

#90-01125

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

Concurring Arbitrators' Signatures

  
Albert Mancini, Jr./Public Arbitrator

NASD DATE OF DECISION: March 3, 1992

AWARD  
#90-01125

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Concurring Arbitrators' Signatures

  
Guillermo L. Bosch/Public Arbitrator

DATE OF DECISION: March 3, 1992

AWARD

#90-01125

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Concurring Arbitrators' Signatures

A handwritten signature in dark ink, appearing to read "Ronald B. Curry". The signature is written over a horizontal line.

Ronald B. Curry/Industry Arbitrator

NASD DATE OF DECISION: March 3, 1992