

National Association of
Securities Dealers, Inc.
NASD Financial Center
33 Whitehall Street
New York, New York 10004

In the Matter of the Arbitration Between

Name of Claimant

Richard H. Morrow

90-01204

Name of Respondents

Ray McLeod
Philips, Appel & Walden, Inc.
Jesup & Lamont Securities, Inc.

REPRESENTATION

For Claimant: Brian H. Mahany, Esq. of William A. Despo, P.C.

For Respondent Ray McLeod: Donald V. Hanson, Esq. of Jesup, Josephthal Securities Co.

For Respondent Philips, Appel & Walden, Inc.: Peter Serenita, Philips, Appel & Walden, Inc.

For Respondent Jesup & Lamont Securities Co. Inc.: Cirino M. Bruno, Esq. of Gusrae, Kaplan & Bruno.

CASE INFORMATION

Claimant signed a Submission Agreement on October 18, 1989 and filed a Statement of Claim on October 18, 1989.

Respondent Ray McLeod signed a submission agreement on April 1, 1991 and filed a Statement of Answer on March 20, 1991.

Respondent Philips, Appel & Walden, Inc. did not sign a submission agreement nor submit a Statement of Answer.

Claimant entered into a Stipulation of Discontinuance with Respondent Jesup & Lamont Securities Inc. on January 15, 1991.

HEARING INFORMATION

Hearing Dates/Sessions: June 13, 1991 - one session; June 14, 1991 - two sessions; July 17, 1991 - two sessions.

Hearing Location: New York, New York.

Respondent Philips, Appel & Walden, Inc. did not appear at the hearing, nor did its counsel.

CASE SUMMARY

This case arises out of certain stock and option investments that Claimant Richard Morrow ("Morrow") made with Moore & Schley, a predecessor firm to Philips, Appel & Walden, Inc. during August 1988. Morrow alleges that these investments were unauthorized, unsuitable, and constituted excessive trading in his account. He also alleges that Respondent Ray MacLeod ("MacLeod") who was the branch office manager at the time of these transactions failed to supervise the account executive who was handling Morrow's account.

Respondent MacLeod denied that the transactions were either unauthorized or unsuitable. He alleged that Claimant was a sophisticated investor who had authorized all trades. He further alleged that the number of trades was not excessive and that he had reviewed the account with the account executive.

RELIEF REQUESTED

Claimant requested \$16,446.81 in compensatory damages plus punitive damages and attorneys' fees.

Respondent MacLeod requested dismissal of the claim and costs to be assessed against the Claimant.

AWARD

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

1. In accordance with Section 25 of the NASD Code of Arbitration Procedure, the Respondent Philips, Appel & Walden, Inc. was served with the Statement of Claim and given an opportunity to respond, which it failed to do;
2. In accordance with Section 21 and Section 26 of the NASD Code of Arbitration Procedure, the Respondent Philips, Appel & Walden, Inc. was given due notice of the hearing procedure by regular and certified mail and failed to appear at the hearing;
3. In accordance with Section 29 of the NASD Code of Arbitration Procedure, the arbitration panel determined, in light of the foregoing information, to proceed with the hearing as scheduled;

4. That Philips, Appel & Walden, Inc. be and hereby is liable to Claimant in the amount of \$15,067.00 inclusive of interest;
5. That Philips, Appel & Walden, Inc. and Ray McLeod are jointly and severally liable in the amount of \$5,080.00 inclusive of interest;
6. That all other claims are hereby dismissed;
7. That each party shall bear its own costs and attorney fees.

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award 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.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, Forum Fees in the amount of \$2,000.00 are assessed. This amount is calculated as follows: Five Sessions x \$400/ Session equals \$2,000. This amount is to borne by the parties in the following manner:

Claimant is to pay \$800.00, but will receive a credit of \$400.00 for the hearing session fee previously deposited.
Respondent McLeod is to pay \$1200.000.

Pursuant to Section 43 of the Code of Arbitration Procedure, the NASD shall retain the \$100 nonrefundable filing fee previously deposited by the Claimant.

Therefore, the following fees are due from Claimant: \$400.00;
and from Respondent McLeod: \$1200.00.

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

Concurring Arbitrator's Signature:




Paul E. Barr
Industry Arbitrator

DATED: September 3, 1991

STATE OF: ~~New York~~ ^{JERSEY}
COUNTY OF: ~~New York~~ ^{ESSEX}

S.S.:

On this 20th day of August, 1991, before me personally appeared Paul E. Barr known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same.



CAROL S. PORTER
A NOTARY PUBLIC OF NEW JERSEY
My Commission Expires May 26, 1994
I.D. #2060393

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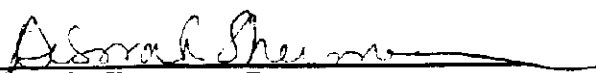
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Concurring Arbitrator's Signature:


Deborah Sherman, Esq.
Public Arbitrator

DATED: September 3, 1991

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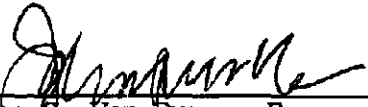
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Concurring Arbitrator's Signature:



John S. Van Duser, Esq.
Public Arbitrator

DATED: September 3, 1991