

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Sheldon H. Werner

AWARD

Case # 90-03571

Name of Respondents

Kopstein, Van Alen & Co., Inc.
Martin Kopstein
Mabon Nugent & Co.

Heard before:

Deborah Sherman, Esq.
Bernard T. Pryor
Ronald B. Curry

Public Arbitrator
Public Arbitrator
Securities Arbitrator

REPRESENTATION

Claimant was represented by: John P. Foster, Esq. of Weber & Foster.

Respondents Kopstein, Van Alen & Co., Inc. and Respondent Martin Kopstein, were represented by Jonathan C. Thau, Esq. of Wilson, Elser, Moskowitz, Edelman & Dicker.

Respondent Mabon Nugent & Co. was represented by Richard E. Haftel, Esq. of Richard E. Haftel, P.C.

CASE SUMMARY

This claim was initiated by a Statement of Claim filed with the National Association of Securities Dealers, Inc. ("NASD") on December 18, 1990. Claimant Dr. Sheldon H. Werner ("Claimant"), alleged that Respondent Martin Kopstein, mismanaged claimant's account during the period from June 1983 through July 1988. Claimant further alleged that Respondents effected unauthorized transactions that were imprudent and unsuitable for a retirement account. Claimant also alleged that by trading excessively, Respondent Martin Kopstein breached his fiduciary duty. As a result of Respondents wrongdoing, Claimant suffered damages. Claimant also alleged that Mr. Kopstein's employers, Respondent Mabon, Nugent and Co., and after February, 1987, Respondent Kopstein, Van Alen and Co., Inc., failed to properly supervise

Mr. Kopstein's activities as well as failed to review Claimant's account.

In a Statement of Answer filed with the NASD on April 1, 1991, Respondent, Mabon, Nugent & Co., maintained that the Statement of Claim was without factual support or legal merit. Respondent claimed that Claimant was aware of each transaction through monthly statements. Respondent further claimed that the trading strategy implemented, for a man in Claimant's position, was not improper. Respondent Martin Kopstein and Respondent Kopstein, Van Alen & Co., Inc. concurred with the answer filed by Respondent Mabon, Nugent & Co. Respondent Mabon, Nugent & Co. filed a cross claim against Respondents Kopstein and Kopstein, Van Alen & Co., Inc. for indemnification purposes. Respondents Kopstein and Kopstein, Van Alen & Co., filed a cross claim against Respondents Mabon, Nugent & Co. for indemnification purposes.

RELIEF REQUESTED

Claimant requested damages in the amount of \$80,830.00, plus interest from July 29, 1988, the date on which trading in the account was stopped. In addition claimant requested punitive damages, costs and legal fees in amounts deemed proper by the panel. Respondent Mabon, Nugent & Co. requested that Claimant's claims be dismissed in their entirety. In the event of liability, Respondent Mabon, Nugent & Co. requested indemnification by Respondents Kopstein and Kopstein, Van Alen & Co. Respondent Kopstein and Respondent Kopstein, Van Alen & Co., requested that Claimant's claims be dismissed in their entirety and that the costs of this arbitration be assessed to the Claimant. In the event of liability, Respondents Kopstein and Kopstein, Van Alen & Co. requested indemnification by Respondent Mabon, Nugent & Co.

AWARD

On May 30 and 31, 1991 at the NASD Office in New York, New York, during a hearing lasting four (4) hearing sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant, Sheldon Werner on November 16, 1990 and signed by Annette L. Nazareth on behalf of Respondent, Mabon, Nugent & Co. on April 1, 1990, signed by Respondent, Martin Kopstein, on April 9, 1991, and signed by Martin Kopstein on behalf of Kopstein, Van Alen & Co., Inc., on April 9, 1991.

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 original remains on file with the NASD.

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

1. All claims against the Respondents, Martin Kopstein, Kopstein, Van Alen & Co., Inc., and Mabon, Nugent & Co., are hereby denied in their entirety.
2. The parties shall each bear their respective costs including attorneys' fees.
3. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain all filing fees previously deposited by the Parties.
4. The Claimant shall be assessed an additional \$500 in forum fees payable to the National Association of Securities Dealers, Inc. in accordance with Section 43 of the Code of Arbitration Procedure.

Arbitrators Signatures


Deborah Sherman, Esq.

STATE OF New York ss.:

COUNTY OF New York

On this 13th day of June 19 91, before me personally appeared Deborah Sherman, Esq. to me known and known before me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

Monica A. Shia

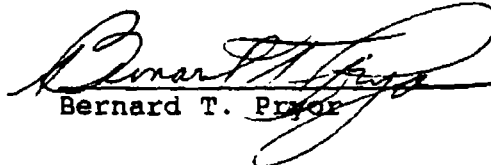
LC25A

MONICA A. SHIA
NOTARY PUBLIC, State of New York
No. 31-4682119
Qualified in New York County
Commission Expires May 28, 1993

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

1. All claims against the Respondents, Martin Kopstein, Kopstein, Van Alen & Co., Inc., and Mabon, Nugent & Co., are hereby denied in their entirety.
2. The parties shall each bear their respective costs including attorneys' fees.
3. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain all filing fees previously deposited by the Parties.
4. The Claimant shall be assessed an additional \$500 in forum fees payable to the National Association of Securities Dealers, Inc. in accordance with Section 43 of the Code of Arbitration Procedure.

Arbitrators Signatures


Bernard T. Pryor

STATE OF New York ss.:

COUNTY OF New York

On this 12th day of June 1991, before me personally appeared Bernard T. Pryor, to me known and known before me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

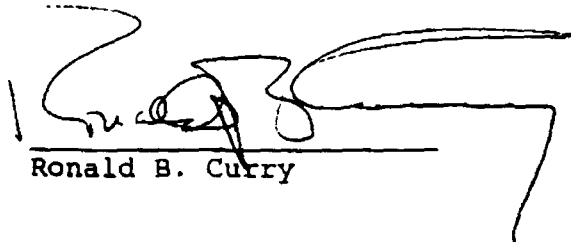
Sharon L. Sturm

SHARON L. STURM
NOTARY PUBLIC, State of New York
No. 4570893
Qualified in New York County
Term Expires August 20, 1992

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

1. All claims against the Respondents, Martin Kopstein, Kopstein, Van Alen & Co., Inc., and Mabon, Nugent & Co., are hereby denied in their entirety.
2. The parties shall each bear their respective costs including attorneys' fees.
3. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain all filing fees previously deposited by the Parties.
4. The Claimant shall be assessed an additional \$500 in forum fees payable to the National Association of Securities Dealers, Inc. in accordance with Section 43 of the Code of Arbitration Procedure.

Arbitrators Signatures

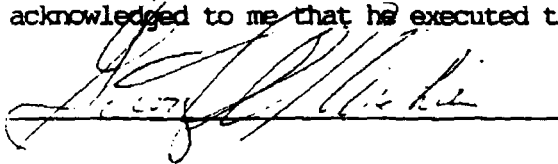


Ronald B. Curry

STATE OF New York ss.:

COUNTY OF New York

On this 12 day of JUNE 19 91, before me personally appeared Ronald B. Curry to me known and known before me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.



GEORGE A. MICHELE
NOTARY PUBLIC, State of New York
No. 31-688030
Qualified in New York County
Term Expires 5/6/93