

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Ralph A. Mill

91-00270

Name of Respondent(s)

U.S. Bancorp Brokerage

REPRESENTATION

For Claimant: John M. Keefe, Esq.

For Respondent: Richard L. Caswell, Esq., of U.S. Bancorp

CASE INFORMATION

Statement of Claim filed: January 25, 1991

First Amended Claim filed: April 12, 1991

Claimant's Submission Agreement signed on: January 21, 1991

Statement of Answer filed by Respondent on: April 5, 1991

Respondent's Submission Agreement signed on: April 5, 1991

HEARING INFORMATION

Pre-Hearing Conference(s) : December 31, 1991 / one session

Hearing Date(s)/Session(s): January 9, 1992 / two sessions

Hearing Location: Seattle, Washington

CASE SUMMARY:

Claimant alleged that Respondent was grossly negligent in overstating the balance in his account and that Claimant detrimentally relied upon the statements made by Respondent.

Respondent alleged that Mr. Mill was unjustly enriched in the sum of \$19,982.70 by the two miscredits to his brokerage account; that Mr. Mill, as a seasoned investor, could not reasonably have relied upon the \$19,982.70 miscredit to his account; that Mr. Mill was contributorily negligent; 4) that Mr. Mill has unclean hands; and 5) punitive damages are not properly awardable herein.

RELIEF REQUESTED

Claimant requested that Respondent absorb its own mistake and that the current equity in the account be converted to the correct value at the time the mistake was made plus interest of 9% per annum to be computed from 12/29/89 to the date of the award. Claimant requested total compensatory damages as of 11/30/90 of \$16,269.43. Claimant also requested \$10,000 in punitive damages.

Respondent requested that the arbitrators deny Claimant any relief, and that an award be entered in favor of Respondent.

OTHER ISSUES CONSIDERED AND 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 original(s) remain on file with the NASD.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing and post hearing submissions (if any), the undersigned arbitrator(s) has/have decided in full and final resolution of the issues submitted for determination as follows:

1. Each and every claim of Claimant is dismissed.
2. Claimant's request for punitive damages is denied.
3. Each party shall bear its own attorneys fees and costs.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the NASD shall retain the \$100 nonrefundable filing fee and the \$400 hearing session deposit previously paid by Claimant. Claimant is assessed forum fees of \$150 and Respondent is assessed forum fees of \$550. Said forum fees were calculated as follows: 1 prehearing session x \$300 plus 2 hearing sessions x \$400 hearing session deposit = \$1100 minus the \$400 paid by Claimant = \$700 total due.

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

ARBITRATION PANEL

Public/Industry
Public Chairperson
Public
Industry

rs' Signatures

Frank P. Blakesslee
Frank P. Blakesslee

Date of Decision: January 7, 1992

Served Jan 26, 1992