

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Nathan A. Duncan and Margaret M. Duncan, JTWROS

Claimants

vs.

Waterhouse Securities, Inc.

Respondent

CASE #91-01068
AWARD

CASE SUMMARY

Claimants Nathan A. Duncan and Margaret M. Duncan, appearing pro se, in a claim filed with the National Association of Securities Dealers, Inc. on April 5, 1991, alleged that Respondent Waterhouse Securities, Inc., represented by Chief Compliance Officer Philip J. McElynn, accepted a contractual relationship in which they received a commission to sell short 500 shares of Flight International Group. Then, on orders from their headquarters, they covered the short position, again charging a commission, notwithstanding Claimants' specific order not to do so. Claimants alleged that the owner of the shares forced Waterhouse to cancel their contract with the Claimants causing losses to them.

Respondent Waterhouse Securities, Inc., maintained that they never advised the Claimants of the appropriateness of any investment strategy or investment, that the Claimants were sophisticated investors, and that when Respondent was unable to borrow stock to cover Claimants' short position, the Claimant refused to take any action, forcing Respondent to buy the stock in the Claimants' account.

RELIEF REQUESTED

Claimants requested damages of \$2,500.00. Respondent requested that the claim of the Claimants be dismissed.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Verne Hampton, II, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on March 22, 1991 and by the Respondent on July 1, 1991 respectively;

And, that the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. The claims of the Claimants against Respondent Waterhouse Securities, Inc. be and hereby are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. The Fifty Dollar and No Cents (\$50.00) filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants shall be retained by the NASD, Inc.

AFFIRMATION

I, VERNE HAMPTON, II, ESQ., do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.

Verne C. Hampton II.

Signature of Arbitrator

DATED: November 6, 1991