

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 BetweenName of Claimant

Daniel Thelen

91-01343

Name of Respondent

David Alexa

REPRESENTATION

For Claimant David Alexa ("Claimant"): Thomas M. Hitch, of McGinty, Brown et al.

For Respondent Daniel Thelen ("Respondent"): Devin A. Schlinder, of Warner, Norcross, et al.

CASE INFORMATION

Statement of Claim filed: April 18, 1991.

Claimant's Submission Agreement signed on: May 31, 1991.

Statement of Answer filed by Respondent on: September 13, 1991.

Respondent's Submission Agreement signed on: November 18, 1991.

HEARING INFORMATION

Hearing Dates/Sessions: December 5, 1991/2 sessions.

Hearing Location: Southfield, MI.

CASE SUMMARY

Claimant alleged Respondent bought and sold stocks in Claimant's account without authorization. Claimant stated he was unaware Respondent was required to obtain approval for transactions. Claimant alleged Respondent did not advise him of the risks associated with the purchase of newly issued stocks. Claimant further alleged Respondent churned his account. Claimant also alleged the types of issues Respondent purchased and the utilization of a margin account were unsuitable for Claimant.

Respondent alleged he explained the terms of the margin agreement and explained the potential risks to Claimant. Respondent stated all trades

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were reviewed and approved by Claimant. Respondent asserted Claimant was a well-informed individual and that he spent many hours educating Claimant about his holdings. Finally, Respondent denied the investments were unsuitable or that he churned Claimant's account.

RELIEF REQUESTED

Claimant requested: actual damages in the amount of \$25,000.00; costs; and attorneys' fees.

Respondent requested: Claimant's claim be dismissed in its entirety; costs and expenses.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that a handwritten, signed Award may be entered. In this case, the parties have agreed to receive a conformed copy of the Award while the original remains on file with the NASD.

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

- 1- The claim of churning made by Claimant is denied;
- 2- The claim of unauthorized trading made by Claimant is denied;
- 3- The Respondent is liable on the claim of unsuitability made by Claimant, and shall pay to Claimant the sum of SIX THOUSAND THREE HUNDRED SEVENTY SIX 00/100 DOLLARS (\$6,376.00). This amount is net of any set-off for amounts previously received by Claimant from the brokerage firms;
- 4- All other claims are dismissed;
- 5- Each party shall bear its own costs, including attorneys' fees.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the NASD shall retain the \$100.00 non-refundable filing fee previously deposited by Claimant and the following forum fees are assessed:

2 sessions X \$300.00 = \$600.00

Forum fees Assessed Against:

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1- Respondent in the amount of \$600.00. Respondent shall reimburse Claimant the sum of \$300.00 to represent the hearing session deposit previously deposited by Claimant. Therefore, the amount due and owing to the NASD equals \$300.00.

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

ARBITRATOR SIGNATURE


Alan M. Greene/Public Arbitrator

Date of Decision: 12/17/91