

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between ;

Ralph A. Manton ;

Claimant ;

vs. ;

CASE #91-01424
AWARD

Burnett, Grey & Company, Inc. & ;
Robin M. Rushing ;

Respondents ;

CASE SUMMARY

Ralph A. Manton, Pro Se, in a claim filed with the National Association of Securities Dealers, Inc. on May 7, 1991, alleged that Respondent Robin M. Rushing while his broker at Burnett, Grey & Company, Inc. made discretionary purchases for his customer IRA account while Burnett, Grey & Company was not cleared to trade in North Carolina, suggesting that he use a New York address. Claimant states that Respondents purchased U.S. Environmental which dramatically dropped in value and contrary to his instructions, they did not take steps to limit the loss.

Respondent, Burnett Grey & Company, Inc., represented by B.J. Galliso, Compliance, maintained that Respondents never had any discretionary authority over Claimant's account. They affirm that Claimant had investment experience and that he never told Ms. Rushing to liquidate his account in spite of his knowledge of its decline in value. Respondent states that the legal fees and other charges were from the clearing agent, Ameritrade, Inc. who received those fees. Respondent maintained that Claimant's investment objective was speculation.

Respondent Robin M. Rushing did not file a Statement of Answer to the Statement of Claim since the National Association of Securities Dealers, Inc. was unable to effect service upon Robin M. Rushing of the Claimant's claim.

RELIEF REQUESTED

Claimant requests Six Thousand Seven Hundred Twenty-Seven Dollars and Eighty-Five Cents (\$6,727.85) in damages, Two Hundred Twenty-Five Dollars (\$225.00) in legal fees charged to transfer his account and Twenty-Two Dollars and Fifty Cents (\$22.50) for stop

payment and wire transfer charges authorized by Respondent.

Respondent Burnett Grey & Company, Inc. requests that it not be held responsible for any losses in the Claimant's account. Respondent Robin M. Rushing did not file a Statment of Answer to the Statment of Claim since the National Association of Securities Dealers, Inc. was unable to effect service of the claim upon Robin M. Rushing.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Larry J. Dagenhart, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on May 1, 1991 and by the Respondent Burnett, Grey & Company, Inc. on June 10, 1991 and not signed by Respondent Robin M. Rushing since the National Association of Securities Dealers, Inc. was not able to effect service of the Statement of Claim upon Robin M. Rushing.

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 Claimant against the Respondents Burnett Grey & Company, Inc. and Robin M. Rushing be and hereby are dismissed in their entirety.
2. The parties shall bear their respective costs including attorney's fees.
3. The Seventy-Five Dollars (\$75.00) hearing session deposit previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the National Association of Securities Dealers, Inc.

AFFIRMATION

I, Larry J. Dagenhart, 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.


Larry J. Dagenhart

DATED: 10-30-91

DATED BY THE NASD, INC.: November 19, 1991