

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between :

David L. Smith :

Claimant :

vs. :

USAA Brokerage Services :

Respondent :
-----CASE #91-03709
AWARDCASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on November 25, 1991, Claimant, David L. Smith, who appeared Pro Se, alleged that Respondent, USAA Brokerage Services misrepresented the risk regarding Long Island Lighting Co. Cumulative Preferred Common stock, which encouraged him to invest in this security, causing a loss to his account. The Claimant further alleged that the Respondent led him to believe that although he sold the shares, he would continue to receive quarterly dividends and that the dividends that were credited to his account were later removed.

Respondent, USAA Brokerage Services, through its outside counsel, Martin P. Honigberg, Esq. of Goodwin Procter & Hoar, Boston, MA, maintained that it is a discount broker which doesn't offer advice on customer investment decisions, and that if the Claimant had questions about how the dividends should be paid, he should have called the company. The Respondent further maintained that the Claimant should not have received the initial dividend, and therefore was not entitled to this money.

RELIEF REQUESTED

Claimant, David L. Smith requested \$4,827.90 in actual damages and \$5,000.00 in punitive damages.

Respondent, USAA Brokerage Services requested the claims of the Claimant be dismissed and it be awarded costs and attorney's fees.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Stephen E. Crable, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on November 20, 1991 and by the Respondent on January 27, 1992.

And, 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. Respondent, USAA Brokerage Services is liable and shall pay \$508.31 in actual damages to Claimant, David L. Smith.
2. The parties shall bear their respective costs and attorney's fees.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc. Respondent USAA Brokerage Services shall pay \$75.00 to David L. Smith as partial reimbursement for the filing fee.

AFFIRMATION

I, STEPHEN E. CRABLE, 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.



Signature of Arbitrator

DATE OF DECISION: June 3, 1992