

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC

In the Matter of the Arbitration Between

Name of Claimant

Phillip S. Johnson

and

92-00056

Name of Respondents

Williams Buchanan & Co., Inc. and
Avery Don Trumbo

REPRESENTATION OF PARTIES

Claimant was represented by Paul W. Talbot, Esq. of Seeligson & Steinberg, Dallas, Texas.

Respondent Williams Buchanan & Co., Inc. was represented by Jay Gibson, Esq. of True & Rohde, Dallas, Texas.

Respondent Avery Don Trumbo did not appear.

CASE INFORMATION

The Statement of Claim was filed on or about January 7, 1992. Claimant's Submission Agreement was signed on December 23, 1991.

Statement of Answer was filed by Respondent Williams Buchanan & Co., Inc. on or about April 15, 1992. Respondent Williams Buchanan & Co., Inc.'s Submission Agreement was signed on April 10, 1992 by Wilson Williams.

Respondent Avery Don Trumbo did not file an answer or submission agreement.

HEARING INFORMATION

The hearing was held on Monday, November 23, 1992 in Dallas, Texas for a total of two (2) sessions.

CASE SUMMARY

Claimant alleged that Respondent Avery Don Trumbo engaged in unauthorized trading in his account, and that the trading was

excessive and unsuitable for him in light of his stated investment objectives. Claimant further alleged that the actions of the respondents constituted fraud and churning and that Respondent Williams Buchanan was negligent in its hiring and supervision of Respondent Trumbo.

Respondent Williams Buchanan & Co., Inc. denied that the trading in the claimant's account was unauthorized, excessive and unsuitable in light of his stated investment objectives. Respondent Williams Buchanan & Co., Inc. further stated that it did not act negligently in the hiring and supervision of Respondent Avery Don Trumbo. It was also stated that claimant knowingly assumed the risks associated with options trading by his execution of the risk disclosure statement and by his verbal acknowledgement that he was aware that losses had occurred in his account. Respondent Williams Buchanan & Co., Inc. also asserted affirmative defenses including but not limited to the following: waiver, estoppel and ratification.

Respondent Avery Don Trumbo did not file an answer.

RELIEF REQUESTED

Claimant requested an award of his loss of \$55,000.00, commissions paid and transaction costs, unspecified punitive damages, treble damages pursuant to the Texas Deceptive Trade Practices Act, prejudgment and postjudgment interest as provided by law and attorney's fees.

Respondent Williams Buchanan & Co., Inc. requested that the panel deny the relief requested by the Claimant and award it costs and attorney's fees.

OTHER ISSUES CONSIDERED & DECIDED

Upon review of the file and the representations made by/on behalf of the Claimant, the panel has determined that Respondent Avery Don Trumbo has been properly served with the Statement of Claim pursuant to Sections 13 and 25 of the NASD Code of Arbitration Procedure (the "Code"). The panel also determined that Respondent Avery Don Trumbo had received due notice of the hearing as required under Section 26 of the Code and that arbitration of the matter would proceed pursuant to Section 29 of the Code.

Respondent Avery Don Trumbo did not file with the NASD a properly executed submission to arbitration but is required to submit to arbitration pursuant to Section 12 of the NASD Code of Arbitration Procedure (the "Code") is bound by the determination of the arbitration panel on all issues submitted.

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, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. The claims asserted against Respondent Williams Buchanan & Co., Inc. shall be and hereby are dismissed in their entirety.
2. Respondent Avery Don Trumbo shall be and hereby is liable for and shall pay to the Claimant Phillip S. Johnson the sum of \$55,000.00 (fifty five thousand dollars).
3. Post award interest is awarded on the above stated sum as provided by Texas law.
4. Respondent Avery Don Trumbo shall be and hereby is liable for and shall pay to the Claimant Phillip S. Johnson the sum of \$17,000.00 (seventeen thousand dollars) as attorneys fees. In awarding attorney's fees the panel has considered the authorities cited by the Claimant.
5. Each party shall bear its own costs, expenses and attorney's fees incurred in this matter not specifically enumerated herein.

FORUM FEES

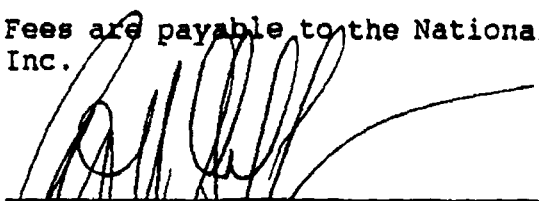
Pursuant to Section 43(c) of the NASD Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. ("NASD") shall retain the non-refundable filing fee in the amount of \$200.00 and shall retain the hearing session deposit in the amount of \$750.00 previously deposited with the NASD by the Claimant.

Respondent Williams Buchanan & Co., Inc. shall pay to the NASD the sum of \$750.00 as forum fees.

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Forum fees are calculated at the rate of \$750.00 per hearing session and \$300.00 for each prehearing conference, if any.

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



Arthur H. Geffen, Esq.
Presiding Chair
Public Arbitrator

Dated:

12/4/92

Jack K. Lovette
Public Arbitrator

Earle A. Shields, Jr.
Industry Arbitrator

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Dated:

Arthur H. Geffen, Esq.
Presiding Chair
Public Arbitrator

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12-8-72

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Dated:

Arthur H. Geffen, Esq.
Presiding Chair
Public Arbitrator

Jack K. Lovette
Public Arbitrator



Earle A. Shields, Jr.
Industry Arbitrator

Dec 7, 1992