

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Darlene E. Ott

NASD Arbitration
No. 92-00728

Name of Respondents

Bateman Eichler, Hill Richards, Inc.
James H. Balkman

REPRESENTATION

For Claimant: David R. Baade, Esq. - Newport Beach, California

For Respondents: Thomas M. Adams, Esq. Lanning, Adams & Lavi - Marina Del Rey, California

CASE INFORMATION

Statement of Claim filed: February 28, 1992

Claimant's Submission Agreement signed on: January 7, 1992

Joint Statement of Answer filed by Respondent, on: May 4, 1992

Respondent, Bateman Eichler, Hill Richards, Inc.'s Submission Agreement signed on: on April 16, 1992

Respondent, James H. Balkman's Submission Agreement signed on April 28, 1992

HEARING INFORMATION

Pre-Hearing Conference: None

Hearing Date/Sessions: December 3, 1992 - Two Sessions

Hearing Location: Los Angeles, California

CASE SUMMARY

Claimant, Darlene E. Ott (Ott) alleged that Respondent, James H. Balkman, while employed by Respondent, Bateman Eichler, Hill Richards, Inc. (BEHR), acted in a negligent manner in carrying out his obligations to her and disregarded specific instructions from Ott with reference to transactions in Ott's account. Ott also

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contends that Balkman made a number of unauthorized trades in her account without her consent, knowledge or permission and caused her to sustain substantial economic losses as a result. Ott also claims against BEHR for failure to supervise Balkman.

Respondents alleged that Ott was aware of all purchases and sales in her account and that any losses sustained were due to market conditions and not through any fault of Respondents. Respondents also alleged that a certain investment in a debenture referenced in her claim was not made through BEHR, therefore, Respondents are not liable for any losses sustained by that investment.

RELIEF REQUESTED

Claimant requested \$50,000.00 in connection with the debenture investment plus interest at the rate of 10.25% from the date of the investment, \$100,000.00 in other losses according to proof.

Respondents requested dismissal of the claim in its entirety.

OTHER ISSUES CONSIDERED & DECIDED

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. Each and every claim of Claimant, Darlene E. Ott, against Respondent, Eatenan Eichler, Hill Richards, Inc., is dismissed.
2. Each and every claim of Claimant, Darlene E. Ott, against Respondent, James H. Balkman is dismissed.
3. The parties shall each bear their respective costs and fees.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed:

1. The NASD shall retain the \$750.00 previously deposited by Claimant as an assessment of forum fees for one hearing session.
2. Respondents are jointly and severally assessed \$750.00 as an assessment of forum fees for one hearing session.

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

ARBITRATORS

Public/Industry

Public Arbitrator
Public Arbitrator
Industry Arbitrator

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Roberta Haft

Date of Decision: _____

Served Dec 15, 1992

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