

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Geraldine E. McArdle

92-03813

Name of Respondents

Baker Watts & Co.  
David L. Hannett, Sr.  
W. Andrew Wilson

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CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on November 10, 1992, Claimant Geraldine E. McArdle, who appeared Pro Se, alleged that she opened an account with Respondent Baker Watts & Co. McLean, Virginia office based on a referral from Respondent W. Andrew Wilson, an employee with Respondent Baker Watts & Co., on September 22, 1986, whereby Respondent W. Andrew Wilson came to her house, and following their discussion of her opening a Keogh Account, Claimant signed an application form and submitted a check for \$8,000.00, at which time, Respondent W. Andrew Wilson recommended Respondent David L. Hannett, Sr. as Account Representative. Claimant further alleged that in the following months, she complained numerous times to Respondent David L. Hannett, Sr. about the excessive trading activity and the amount of commissions charged to her account, and yet, the trading continued. Claimant contended that at no time was options trading explained to her nor was she told these funds were being traded in an options account. Claimant further contended that a few months later, she received a phone call from Respondent David L. Hannett, Sr. asking her to put another \$2,000.00 into her account at which time, Claimant asked "why" and Respondent David L. Hannett, Sr. said her account was in excess of \$8,000.00 but all the accounts had to have a \$10,000.00 minimum balance whereby Claimant told him "no", but that she would transfer other securities that she held at Wheat First Securities, Inc., which were in excess of \$2,000.00, however, they were not to be sold. Claimant asserted that these funds represented almost her total investments and this transfer took place July 28, 1987 in the amount of \$2,800.00. Claimant further asserted that the day after "Black Monday, October 19, 1987", concerned for her account, she called Respondent Baker Watts & Co. and was told that her account balance

was in excess of \$12,000.00, at which time, she told them to close the account and sent her a check, whereby these instructions were followed-up by a letter dated October 20, 1987, and hand delivered to Respondent David L. Hannett's secretary, Kim. Claimant further alleged that during this time she was out of the country for extended periods which did not allow time for her continued surveillance of this account and not until Respondent Baker Watts & Co. called her requesting she deposit another \$300.00 did she find out her initial \$8,000.00 had been lost and her securities had been sold. Claimant further contended that she thought her account balance was in excess of \$12,000.00 and a check was forthcoming; however, it was at this time that she was told that Respondent David L. Hannett, Sr. had been fired and had lost his securities license. Claimant further asserted that Respondent Baker Watts & Co. and their representatives, Respondent W. Andrew Wilson and David L. Hannett, Sr. had an ethical responsibility to their clients funds and should be held liable for her losses.

Respondents Baker Watts & Co. and David L. Hannett, Sr. by and through their in-house counsel Theodore W. Urban, stated that this answer is submitted jointly on behalf of Ferris, Baker Watts, Incorporated, the successor to Baker Watts & Co., Inc. and David L. Hannett, Sr. Respondents maintained that upon opening her account, Claimant Dr. Geraldine E. McArdle, on November 17, 1986, in writing, in words of her choosing, explicitly acknowledged that she understood the risks of options trading, set a risk exposure limit of \$12,000.00; and acknowledged that she had given Respondent David L. Hannett, Sr. authority to manage her account on a fully discretionary basis. Respondents further maintained that all claims asserted by Claimant are barred by applicable statute of limitations in that more than six years had elapsed from the opening on September 22, 1986 of Claimant's account as an individual account to date she executed the Uniform Submission Agreement initiating this arbitration. Respondents contended that they deny that there was ever any indication that the account was to be a Keogh account to that the funds deposited with Respondent Ferris Baker Watts, Inc. constituted a Keogh contribution; however, at the meeting with Respondent David L. Hannett, Sr., Claimant established her suitability for options trading and was provided with information about options trading, including the options disclosure document at which time, Claimant also executed the necessary account documents qualifying her to trade options and authorizing Respondent David L. Hannett, Sr. to exercise full trading discretion in her account. Respondents further contended that they believe that the Statement of Claim submitted by Claimant fails in any meaningful way to allege any legally recognizable duty owed to her by Respondents or, if owed, which was in any way breached by either Respondents. Respondents asserted that Claimant simply seeks to disavow all responsibility for her actions and inactions, and for the authority she knowingly and purposefully conferred upon Respondent David L. Hannett, Sr., therefore, having conferred that authority and accepted the risks of the trading which Claimant authorized, Claimant must also accept their unfortunate consequences.

Respondent W. Andrew Wilson failed to file an Answer to the Statement of Claim.

**RELIEF REQUESTED**

Claimant Geraldine E. McArdle requested \$10,000.00 in actual damages.

Respondents Baker Watts & Co. and David L. Hannett, Sr. requested the claim be dismissed in its entirety.

Respondent W. Andrew Wilson failed to file an Answer to the Statement of Claim.

**OTHER ISSUES CONSIDERED & DECIDED**

In accordance with Section 13 of the NASD Code of Arbitration Procedure the Respondent W. Andrew Wilson was served by regular mail on November 25, 1992 and given an opportunity to respond, which he failed to do.

Pursuant to the By-Laws of the NASD the arbitrator determined that Respondent W. Andrew Wilson was required to submit to this arbitration proceeding and is, therefore, bound by the arbitrator's ruling and determination.

**AWARD**

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Stuart H. Dunn, 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 5, 1992, by the Respondent Baker Watts & Co. on January 5, 1993, by the Respondent David L. Hannett, Sr. on December 15, 1992 and not by the Respondent W. Andrew Wilson as required by Sections 12 & 13 of the NASD Code of Arbitration Procedure.

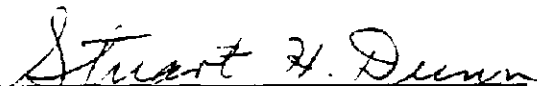
And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. The claim of Claimant Geraldine E. McArdle against Respondents Baker Watts & Co., David L. Hannett, Sr. and W. Andrew Wilson is dismissed.
2. The parties shall bear their respective costs.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Geraldine

E. McArdle shall be retained by the NASD, Inc. The Respondents Baker Watts & Co., David L. Hannett, Sr. and W. Andrew Wilson are jointly and severally liable and shall pay to the Claimant the sum of \$150.00 as reimbursement.

**AFFIRMATION**

I, **STUART H. DUNN, 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.

  
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Signature of Arbitrator

**DATE OF DECISION:**     December 1, 1993