

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Diane M. Buckshnis

93-00277

Name of Respondents

Jerry Baker
Rick Dye

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on January 27, 1993, Claimant Diane M. Buckshnis, who appeared Pro Se, alleged that after her broker left the firm of Bateman, Eichler; a predecessor of Kemper Securities, Inc.; her account was turned over to Respondent Rick Dye and since that time he has traded her stock three times over. Claimant further alleged that she was a busy person and travels 100% of the time whereby, one day Respondent Rick Dye caught Claimant off guard, at which time, she agreed to give Respondent Rick Dye blanket authorization to sell stock without her authorization. Claimant contended that Respondent Rick Dye then purchased and sold Bolar stock, and if Claimant was informed of the stock, she would have never authorized Respondent Rick Dye to purchase this stock. Claimant further contended that Respondent Rick Dye did not have her verbal or written approval to buy and sell the Bolar stock, and she was out of town on or before the time Respondent Rick Dye purchased the stock. Claimant asserted that due to her travel, it took her 10 months to file a complaint with Kemper Securities, Inc. and from November, 1992 to January, 1993, Ms. Julie Tanner along with Respondent Jerry Baker of Kemper Securities, Inc. Compliance Department attempted to resolve her complaint, at which time, they offered to correct the second trade of Bolar; however, Claimant declined the offer. Claimant further asserted that because of the Respondents' actions, she suffered losses in her account.

Respondents Jerry Baker and Rick Dye, by and through their counsel Robert S. Steigerwald, Esq. of Kemper Securities, Inc., maintained that Claimant Diane M. Buckshnis gave her broker Respondent Rick Dye authority to make those trades in a telephone conversation she had with him and Respondents further state that Claimant admits she authorized those trades.

Respondents further maintained that Claimant did not suffer any damages caused by Respondents whereby Claimant does not have any legal basis to recover costs. Respondents contended that Respondent Rick Dye did not have "blanket authorization" to initiate trades and the Bolar trades were not unauthorized. Respondents further contended that Claimant has no cause of action against Respondent Jerry Baker and in fact, there are no allegations whatsoever of wrongdoing by Respondent Jerry Baker. Respondents asserted that Claimant has failed to state any claim for relief; and that the claims are barred by ratification, waiver and the failure to mitigate damages, thus the claim should be dismissed.

RELIEF REQUESTED

Claimant Diane M. Buckshnis requested \$4,323.15 in actual damages together with reimbursement of the \$125.00 filing fee and \$29.40 in costs.

Respondents Rick Dye and Jerry Baker requested the claim be denied.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, O. Meredith Wilson, Jr., 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 January 25, 1993 and by the Respondents on March 29, 1993.

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 Diane M. Buckshnis against Respondents Rick Dye and Jerry Baker is dismissed.
2. The parties shall bear their respective costs.
3. The \$125.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Diane M. Buckshnis shall be retained by the NASD, Inc. Respondent Rick Dye is liable and shall pay to the Claimant the sum of \$125.00, as reimbursement.

AFFIRMATION

I, O. MEREDITH WILSON, JR., 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.

O. Meredith Wilson Jr.
Signature of Arbitrator

DATE OF DECISION: June 29, 1993