

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

William A. Merlino

93-02269

Name of Respondent

William Kent

REPRESENTATION

For Claimant William Merlino ("Claimant"): Stephen M. Robinson, Attorney at Law.

For Respondent William Kent ("Respondent"): appeared pro se.

CASE INFORMATION

Statement of Claim filed: June 7, 1993

Claimant's Submission Agreement signed on: May 25, 1993

Joint Statement of Answer filed by Respondents Stuart, Coleman & Co., Inc. ("Stuart Coleman") and William Kent ("Kent") on: August 9, 1993

Kent's Submission Agreement signed on: August 5, 1993

HEARING INFORMATION

Hearing Date/Sessions: March 2, 1994 - two sessions

Hearing Location: NASD Offices, Philadelphia, PA

CASE SUMMARY

Claimant alleged, among other things, that Kent made material misrepresentations regarding his approach to options trading upon which Claimant relied to his detriment. Claimant alleged that such behavior amounted to fraud under the federal securities and state common law. Claimant alleged breach of contract, breach of fiduciary duty and negligence.

Kent maintained that he made no false representations and that Claimant was a sophisticated investor. Kent further maintained that he fully explained his investment approach to Claimant and that Claimant decided to follow Kent's approach. Kent denied all other allegations of wrongdoing asserted by Claimant and maintained that Claimant's account was properly handled at all times.

RELIEF REQUESTED

Claimant requested: compensatory damages in the amount of \$37,361.95, punitive damages, plus pre-judgment interest and attorney's fees.

Kent requested: that Claimant's claim be denied and that Claimant pay all costs of this arbitration.

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 originals remain on file with the NASD.

That prior to the commencement of the hearing on March 2, 1994, the Panel was advised that Claimant had settled his claim with Stuart, Coleman. Therefore the hearing involved only the allegations that Claimant asserted against Kent.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. That the Claimant's claim is denied in its entirety.
2. That Claimant's claim for punitive damages is denied.
3. That the parties shall bear all cost and attorney's fees, except as specifically addressed herein.

Page 3.
Merlino Award
Case #93-02269

FORUM FEES

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

2 sessions X \$400 = \$800

Forum fees Assessed Against: Claimant and Kent equally. Claimant is assessed forum fees in the amount of \$400; however, Claimant is entitled to offset this amount with his hearing session deposit of \$400, so that no more fees are due from Claimant. Kent is assessed forum fees in the amount of \$400.

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

Concurring Arbitrator's Signature

Name

Public/Industry

Barbara A. Ash

Barbara A. Ash, Esq.
Chairperson

Public

NASD Date of Decision: March 18, 1994

Page 3.
Merlino Award
Case #93-02269

FORUM FEES

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

2 sessions X \$400 = \$800

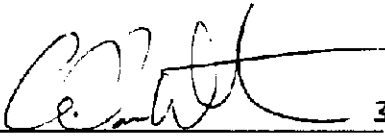
Forum fees Assessed Against: Claimant and Kent equally. Claimant is assessed forum fees in the amount of \$400; however, Claimant is entitled to offset this amount with his hearing session deposit of \$400, so that no more fees are due from Claimant. Kent is assessed forum fees in the amount of \$400.

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

Concurring Arbitrator's Signature

Name

Public/Industry


A. Louis Denton, Esq. 3/7/94

Industry

NASD Date of Decision: March 18, 1994

Page 3.
Merlino Award
Case #93-02269

FORUM FEES

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

2 sessions X \$400 = \$800

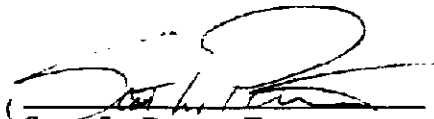
Forum fees Assessed Against: Claimant and Kent equally. Claimant is assessed forum fees in the amount of \$400; however, Claimant is entitled to offset this amount with his hearing session deposit of \$400, so that no more fees are due from Claimant. Kent is assessed forum fees in the amount of \$400.

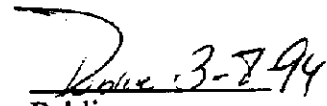
Fees are payable to the National Association of Securities Dealers, Inc.

Concurring Arbitrator's Signature

Name

Public/Industry


Scott L. Peters, Esq.


Public

NASD Date of Decision: March 18, 1994