

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Stephen Brandt FBO Stephen T. Brandt

94-02010

Name of Respondents

Richard Banach
North Shore Financial Planning

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on May 31, 1994, Claimant Stephen Brandt, who appeared Pro Se, alleged that Respondents Richard Banach ("Banach") and North Shore Financial Planning ("North Shore") purchased securities for a custodial account that were unsuitable, that the number of transactions effected in the account was excessive, that Respondent Banach churned the account for his own benefit, that the commissions generated were excessive, and that transactions were made in an unauthorized margin account. Claimant alleged that there was a \$2,100 loss in the account, and that if the original \$7,500 investment had been placed into a bank CD it would have increased to \$12,000 by the time the account was closed. Claimant alleged that he suffered damages for which the Respondents should be held liable.

Respondents Banach and North Shore, who appeared Pro Se, maintained that all investment activity in the account was done on a non-discretionary basis, and that all investments were suitable for a custodial account. Respondents maintained that the activity in the account consisted of a total of twelve round-trip trades over a five year period and cannot be construed as churning. Respondents additionally maintained that Claimant's account was a cash account, not a margin account, and that the \$6.55 of margin interest charged was probably caused by a delay in receiving payment for a purchase. Respondents also maintained that the loss in Claimant's account appears to be \$1,085.03.

RELIEF REQUESTED

Claimant Stephen Brandt requested \$10,000 in actual damages, plus interest.

Respondents Richard Banach and North Shore Financial Planning did not specifically state a relief, but asserted that the Statement of Claim is without merit, unfounded and based on erroneous conclusions.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single public Arbitrator, Richard W. Vallario, 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 December 22, 1994 and by the Respondents on March 3, 1995.

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 Statement of Claim filed by Claimant Stephen Brandt, is denied and dismissed in its entirety.
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 shall be retained by the NASD, Inc.

AFFIRMATION

I, RICHARD W. VALLARIO, ESQ., do hereby affirm upon my oath of arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.



Signature of Arbitrator

DATE OF DECISION: JULY 17, 1995