

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the matter of the Arbitration Between

Name of Claimant(s)

Richard C. Nelson
Alice Nelson

NASD Arbitration
No. 95-01792

Name of Respondent(s)

Smith Barney Shearson, Inc.

REPRESENTATION

For Claimants: Richard C. Nelson, Seattle, Washington

For Respondent: Sean J. Coughlin, Esq., Smith Barney Inc., New
York, New York

CASE INFORMATION

Statement of Claim filed: March 29, 1995

Claimants' Submission Agreement signed: April 17, 1995

Statement of Answer filed by Respondent: June 14, 1995

Respondent's Submission Agreement signed: June 14, 1995

HEARING INFORMATION

Pre-Hearing Conference Date(s)/Session(s): None

Hearing Date(s)/Session(s): March 27, 1996 (two sessions)
March 28, 1996 (one session)

Hearing Location:

Seattle, Washington

CASE SUMMARY

Claimants alleged the following claims with respect to the their accounts: 1) Respondent led Claimants into placing the majority of Claimants' funds into speculative and highly speculative stocks contrary to Claimants' instructions regarding the handling of Claimants' investments from December 1993 through March 1994; 2) Respondent recommended that Claimants purchase highly speculative stocks while leading Claimants to believe that they were not speculative, on which Claimants relied from December 1993 through March 1994; 3) Respondent recommended a pattern of buying and selling stocks that created unnecessary buys and sells from December 1993 through March 1994; 4) Respondent engaged in option practices without Claimants' consent several times during the period of December 1993 through March 1994; and 5) Respondent was reckless in its advice to Claimants from December 1993 through March 1994.

Respondent denied Claimants' allegations of wrongdoing and alleged that Claimants' Statement of Claim is nothing more than an attempt by Claimants to recoup market losses at the expense of Respondent. Respondent further alleged that Richard C. Nelson is an experienced investor who actively managed his account and frequently spoke with Matt Shaw, Claimants' stock broker during the subject time period. Respondent further alleged that Claimants were aware of all of their transactions and that the stocks that Claimants are now complaining about were quite suitable for Claimants' accounts. Respondent also asserted affirmative defenses.

RELIEF REQUESTED

Claimants requested damages as follows:

1. In respect to R. Nelson's IRA account: \$6,372.00;
2. In respect to R. Nelson's SEP account: \$8,325.00;
3. In respect to A. Nelson's IRA account: \$1,829.00;
4. In respect to R. Nelson's retail account: \$6,071.00;
5. In respect to all accounts, the commissions charged;
6. In respect to all accounts, reimbursement for all call inquiries; and

7. In respect to all accounts, a reasonable earnings had the funds been reasonably invested.

Respondent requested dismissal of Claimants' claims and requested that costs be assessed against Claimants.

OTHER ISSUES CONSIDERED AND DECIDED

None.

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. All claims by Claimants are dismissed.
2. The parties shall each bear their respective costs including attorney's fees.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following forum fees are assessed: The NASD shall retain the \$300.00 hearing session deposit previously deposited by the Claimants. Forum fees are assessed against Claimants in the amount of \$600.00, calculated as follows: Three hearing sessions times \$300.00/session minus the \$300.00 retained by the NASD.

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

PRESIDING ARBITRATOR

Name Public / Industry

Katherine Hendricks, Esq.

Public Arbitrator

Presiding Arbitrator's Signature


Katherine Hendricks, Esq.

Date of Decision: 4/29/96