

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the matter of the Arbitration Between

Name of Claimant(s)

Lee Ward and Lee Ward, representing
Richard Ward

NASD Arbitration
No. 95-04022

Name of Respondent(s)

Jack Van Cleave
Crowell, Weedon & Company

REPRESENTATION

For Claimants: G. Mark Brewer, Esq., La Jolla, California

For Respondents: David M. Bartholomew, Esq., Keesal, Young &
Logan, Long Beach, California

CASE INFORMATION

Statement of Claim filed: August 17, 1995

Amendment to Statement of Claim filed: October 5, 1995

Claimants' Submission Agreements signed as follows:

Lee Ward: May 22, 1995

Richard Ward: May 25, 1995

Joint Statement of Answer filed by Respondents: December 4, 1995

Respondents' Submission Agreements signed as follows:

Crowell, Weedon & Company: November 14, 1995

Jack Van Cleave: December 7, 1995

HEARING INFORMATION

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

Hearing Date(s)/Session(s): July 30, 1996 (two sessions)
July 31, 1996 (two sessions)

Hearing Location: San Diego, California

CASE SUMMARY

Claimants alleged the following claims with respect to investments in various securities: 1) Breach of Fiduciary Duty; 2) Negligence; 3) Breach of the Implied Covenant of Good Faith and Fair Dealing; 4) Unsuitability; 5) Churning; and 6) Fraud.

Respondents alleged that they did not churn Claimants' accounts and alleged that they are not responsible for Claimants' alleged losses. Respondents denied that they engaged in any wrongdoing in connection with the matters alleged by Claimants in the Statement of Claim. Respondents further alleged that prior to entering into the transactions complained of in the Statement of Claim, Claimants, and Lee Ward in particular, were informed of the benefits and potential risks of each investment; and that Lee Ward had express trading authorization over each of the accounts at issue and authorized each and every transaction in Claimants' accounts. Respondents further alleged that given Claimants' investment objectives and sophistication, each investment and the investment strategy as a whole was suitable for Claimants; and that Respondents are not now responsible simply because market events caused Claimants to suffer losses in their accounts. Respondents also asserted affirmative defenses.

RELIEF REQUESTED

Claimants requested:

1. An award against Respondents, jointly and severally, of actual, consequential and incidental losses, in an amount to be shown according to proof and determined at hearing;
2. An award against Respondents, jointly and severally, of general damages in an amount to be shown according to proof and determined at hearing;

3. An award against Respondents, jointly and severally, for exemplary and punitive damages, in an amount commensurate with each Respondent's ability to pay, according to proof at hearing;
4. Costs of claim and attorney's fees; and
5. Such other and further damages as the arbitrators deem just and proper.

Respondents requested that the panel issue an award:

1. Finding in favor of Respondents and against Claimants on all claims asserted in the Statement of Claim;
2. That Respondents be awarded their costs incurred in defending the above-captioned action, including attorneys' fees and expert witness fees; and
3. Such other and further relief as the panel may deem just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

At hearing, the panel was advised of the parties' agreement to dismiss Margaret R. Bailey as a Claimant because of her death, and advised of the parties' agreement to dismiss Richard Ward and that Lee Ward would act as representative for Richard Ward.

The parties have agreed that the Award in this matter may be executed in either 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 National Association of Securities Dealers, Inc. (NASD).

AWARD

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

1. Respondents are jointly and severally liable for and shall pay to Claimants the sum of \$38,000.00, inclusive of interest.
2. Claimants' claims for exemplary and punitive damages are denied.

3. 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 refund Claimants' hearing session deposit in the amount of \$500.00. Forum fees are assessed against Respondents, jointly and severally, in the amount of \$2,000.00 and are calculated as follows: Four hearing sessions times \$500.00

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

ARBITRATORS

Name _____ Public / Industry

William R. Newsome, Esq.

Public Arbitrator

Charles M. Myers

Public Arbitrator

Amelia H. Beattie

Industry Arbitrator

Concurring Arbitrators' Signatures

William R. Newsome
William R. Newsome, Esq.

Charles M. Myers

Amelia H. Beattie

Date of Decision: 7-31-96

Date Served: 09-03-96

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William R. Newsome, Esq.	Public Arbitrator
Charles M. Myers	Public Arbitrator
Amelia H. Beattie	Industry Arbitrator

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