

AWARD

NASD Regulation, Inc. Office of Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

Andrew M. Welch and Leesa M. Welch

and

95-05722

Name of Respondent

J.C. Bradford & Co.

REPRESENTATION OF PARTIES

Andrew M. Welch and Leesa M. Welch ("**Claimants**") were represented by Jules L. Federman, Investor's Rights Association, Inc., Santa Barbara, California.

J.C. Bradford & Co. ("**Respondent**") was represented by Linda G. Willis, Esq., J.C. Bradford & Co., Nashville, Tennessee.

CASE INFORMATION

The Statement of Claim was filed on or about December 6, 1995. Submission Agreement of Claimant Andrew M. Welch and Leesa M. Welch was signed on November 17, 1995.

Statement of Answer was filed by Respondent J.C. Bradford & Co. on or about March 7, 1996. Submission Agreement of Respondent J.C. Bradford & Co. was signed on March 7, 1996 by Linda Gibbons Willis.

HEARING INFORMATION

The hearing was held on Tuesday, November 5, 1996 in Nashville, Tennessee for a total of two (2) sessions.

CASE SUMMARY

Claimant alleged that Respondent breached its' fiduciary duty to them; was negligent; and breached its' contractual relationship with them. Specifically, Claimants alleged that Respondent engaged in excessive trading in both mutual funds and stocks. In addition, claimants alleged that some of the

stocks purchased in their accounts were of a very speculative nature, and contrary to their stated investment objectives. Claimants further alleged that Andrew Welch had no experience trading stock options and had no prior knowledge of options or actively trading stocks.

Respondent denied the allegations set forth in the Statement of Claim. Respondent specifically stated that during the entire course of the Claimants' relationship with it, Claimants exercised and continue to exercise independent control over their accounts and to make all investment decisions. It was also stated by Respondent that:

- after being fully apprised of the risks and being provided with the option disclosure booklet by the broker, Claimants decided to sell the 800 shares of Amgen for \$56,000 and to purchase 8 Amgen long term option contracts;
- Claimants liked the idea of purchasing options since it allowed them to control larger positions of the underlying stock with an minimal investment of money; and
- additional options were recommended to the Claimants at their request.

RELIEF REQUESTED

Claimants requested an award against the Respondent as follows:

- ▶ rescission of some or all of the investment interests, as may be applicable;
- ▶ compensatory damages of not less than \$20,000, exclusive of interest and distributions;
- ▶ pre-award and post-award interest from the date of each investment at issue;
- ▶ costs and expenses, including but not limited to, reasonable attorneys' fees, consulting fees, expert witness fees, if applicable and as allowed, and for any other costs deemed reasonable and just;
- ▶ punitive damages and exemplary damages in a sum sufficient to properly punish and make an example of Respondent; and
- ▶ for such other and further relief as the arbitrators deem just and equitable.

Respondent requested that the claims asserted against it be denied in their entirety and that it be awarded costs and reasonable attorneys' fees.

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 original(s) remain on file with the NASD Regulation, Inc. Office of Dispute Resolution.

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. The claims asserted in this matter shall be and hereby are dismissed and denied in their entirety.
2. Each party shall bear its own costs, expenses and attorneys' fees incurred in this matter not specifically enumerated herein.

FORUM FEES

Forum fees are calculated at the rate of \$400 per hearing session and \$300 for each prehearing conference, if any. There were two (2) sessions x \$400 = \$800 in forum fees. Pursuant to §10332(b) a hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with an arbitrator, which lasts four (4) hours or less.

Pursuant to §10332(c) of the NASD Code of Arbitration Procedure, the NASD Regulation, Inc. Office of Dispute Resolution shall **retain** the non-refundable filing fee in the amount of \$100 and shall **retain** as forum fees the hearing session deposit in the amount of \$400 previously deposited with the NASD Regulation, Inc. Office of Dispute Resolution by the Claimant Andrew M. Welch and Leesa M. Welch. Respondent J.C. Bradford & Co. shall be and hereby is liable for and shall pay to the NASD Regulation, Inc. Office of Dispute Resolution the sum of \$400 as the balance due for forum fees.

Pursuant to §10333 of the NASD Code of Arbitration Procedure, the NASD Regulation, Inc. Office of Dispute Resolution shall **retain** the non-refundable member surcharge in the amount of \$200 previously paid by Respondent J.C. Bradford & Co. **Fees are payable to the NASD Regulation, Inc. Office of Dispute Resolution.**

/s/ Raymond S. Clift, Esq.

Raymond S. Clift, Esq.
Public Arbitrator, Presiding Chair

/s/ Morgan Green, Jr.

Morgan Green, Jr.
Public Arbitrator

/s/ W. Scott Mattice

W. Scott Mattice
Industry Arbitrator

Dated:

November 12, 1996

November 15, 1996

November 20, 1996