

6/4/84 960084

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the
Arbitration between

RICHARD A. NADZIEJA,
Claimant,

vs.

DAIN BOSWORTH INCORPORATED,
HARRY S. HELLMAN and
CHARLES BONG KWON KIM,
Respondents.

NASD ARBITRATION
NO. 96-00838

AWARD

© National Association of
Securities Dealers, Inc.

All Rights Reserved

SUMMARY OF THE ISSUES

The Claimant, filing a claim in proper person, alleged that he suffered losses due to the negligence of Dain Bosworth Incorporated and its brokers, Harry S. Hellman and Charles Bong Kwon Kim, in the purchase of five American Online puts, ten Lattice Semiconductor calls, and twenty Compaq Computer calls. Claimant alleges that he was not properly informed about the risks of the investment; that the brokers did not follow his instructions in protecting against losses, and that he was convinced by Mr. Hellman to purchase the twenty Compaq Computer calls when he believed he should be buying puts.

The Respondents deny any wrongdoing, and specifically allege that they followed the client's specific directions regarding the opening and closing of each transaction, and that the losses were due strictly to market volatility. The Respondents further allege the activity in the Claimant's account evidenced that he was an experienced, aggressive investor; willing to speculate and not be subject to influence by a broker. The Respondents showed that the Claimant represented he was an experienced investor and was interested

9606084

primarily in speculation. He opened the account at Dain Bosworth on or about May 9, 1995, indicating that he had fifteen years' experience in investing in equities, and that his primary investment objectives were growth and aggressive growth. From May until the first week in August, 1995, Claimant was active in trading in his account. There were thirteen equity transactions in the account, and of these trades, ten represented positions held less than two weeks. On August 7, 1995, Claimant requested and was granted approval to buy put and call options. Separate and apart from the transactions that are in question, Claimant also purchased ten IBM calls on September 13, 1995 and sold them on September 14, 1995.

Respondents also allege that Claimant failed to mitigate his damages by closing his position in Compaq Computer in October, 1995 prior to the expiration date of the calls.

DAMAGES AND RELIEF REQUESTED

Claimant requested damages in the sum of \$8,812.84 consisting of a loss of \$852.32 on the purchase and sale of the five AOL puts; \$1,607.02 on the loss on the purchase and sale of the ten Lattice Semiconductor calls; and \$6,353.50 on the expiration of the twenty Compaq Computer calls. In addition, Claimant seeks \$1,100 in punitive damages for total damages claimed of \$9,912.84.


RELIEF AWARDED

The undersigned arbitrator has reviewed the Statement of Claim and accompanying documents and the Statement of Answer and accompanying documents as set forth in the Submission to Arbitration signed by Claimant and Respondents. The arbitrator, after reviewing and

9606084

considering the evidence, has determined that Respondents, and each of them, are not liable to the Claimant, and Claimant shall take nothing under his claim, and that pursuant to Section 43 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, Claimant shall be assessed and responsible for the nonrefundable filing fee and hearing session deposit.

DATED this 5th day of June, 1996.


WILLIAM R. URG
Arbitrator

Date Served: June 11, 1996