

N.A.S.D. REGULATION AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Name of Claimant

Jennifer K. Ennis

96-01514

Name of Respondents

Janney Montgomery Scott, Inc.
Timothy Ennis

REPRESENTATION

Claimant Jennifer K. Ennis ("Claimant") was represented by Debra G. Speyer, Esq. and Morgan Bentley, Esq., Philadelphia, PA.

Respondents Janney Montgomery Scott, Inc. ("JMS") and Timothy Ennis ("Ennis") were represented by David B. Bacon, Esq., Archer & Greiner, Haddonfield, NJ.

CASE INFORMATION

The Statement of Claim was filed April 8, 1996.

Claimant's Uniform Submission Agreement was signed March 24, 1996.

The Joint Statement of Answer of JMS and Ennis (collectively "Respondents") was filed May 14, 1997.

JMS's Uniform Submission Agreement was signed April 16, 1996.

Ennis' Uniform Submission Agreement was signed July 30, 1997.

HEARING INFORMATION

Hearing Dates/Sessions: May 13, 1997/two sessions
May 14, 1997/two sessions

Hearing Location: NASD Regulation District Office
Philadelphia, PA

CASE SUMMARY

Claimant alleged in the Statement of Claim that Ennis, her brother-in-law, and JMS engaged in churning and unauthorized trading in unsuitable investments in her account. Claimant alleged that Respondents churned her account for the sole purpose of generating commissions. Claimant also alleged that Respondents placed trades in her account without her authorization and that the investments were unsuitable based on Claimant's stated investment objectives. Claimant alleged that JMS failed to adequately supervise Ennis in the management of Claimant's account. Claimant alleged that she was an unsophisticated investor and that she relied upon Respondents representations to her detriment.

Claimant alleged that based on a cost/equity ratio, Claimant's account had to have earned interest of twelve percent (12%) in 1993, twenty-seven percent (27%) in 1994 and thirty-nine percent (39%) in 1995 just to meet the expenses of commissions and margin interest. Claimant also alleged that the turnover ratio was four (4) times in 1993, nine (9) times in 1994 and fourteen (14) times in 1995. Claimant alleged that Respondents' fraudulent activities resulted in a breach of contract, violated the rules and regulations of the NASD Regulation including the Rules of Fair Practice, federal securities laws and Section 401 of the Pennsylvania Securities Act and also violated the Pennsylvania Unfair Trade Protection and Consumer Protection Act ("UTP").

Respondents denied all allegations of wrong-doing as asserted in the Statement of Claim. Respondents maintained that Claimant's account, serviced by Ennis during the years of 1993-1995, represented less than 1% of Ennis's annual production during those years, but received an inordinate amount of attention and dedication from Ennis due to his familial relationship with the Claimant. Respondents maintained that Claimant had a trading history since 1989 with Butcher & Singer, Inc., which she transferred JMS and Ennis in 1993. Respondents maintained that among other things, Claimant invested in limited partnerships while her account was serviced by Butcher & Singer. Respondents further maintained that Claimant is college educated, serving as a guidance counselor in the New Jersey public school system and that she spoke with Ennis on a weekly basis, tracking her account every step of the way, and making copious notes representing her account value at any given time. Respondents maintained that Claimant and her husband own real estate with a market value of nearly \$500,000, and in 1993, Claimant and her husband reported \$63,001.00 in income on their federal tax return, in 1994, they reported \$86,627.00, and in 1995 \$84,436.00.

Respondents maintained that in April 1993, Claimant asked Ennis if he could structure an investment program that would provide growth while allowing Claimant to withdraw approximately \$800 per month from the portfolio to carry the debt service on her mortgages and Ennis advised Claimant that to get the return that she was requesting, which represented in excess of 9%, she would need to enhance the growth of the portfolio by trading various securities on margin. Respondents maintained that Ennis explained in detail the workings of a margin account, which Claimant fully understood as borrowing funds from her overall equity to purchase securities. In addition, Respondent JMS maintained that Ennis was adequately and appropriately supervised in the management of Claimant's account. Furthermore, Respondents maintained that Claimant tracked her investments with precision and that she requested that her investment objective be changed to a more aggressive investment strategy. Respondents maintained that Claimant was well aware of the securities she was trading, the risks involved in her trading strategy, and that Claimant authorized all transactions. Unfortunately, the market went against her and Respondents maintained that any losses suffered by Claimant were the result of Claimant's own decisions and the fluctuations of the market.

RELIEF REQUESTED

Claimant requested \$66,789.00 in compensatory damages, \$20,000.00 in pre-award interest at 6% per annum, and \$29,000.00 in attorney's fees, and punitive damages.

Respondents requested that the Statement of Claim be denied in its entirety and that the costs of this arbitration be assessed to Claimant.

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 originals remain on file with the 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. That Respondents, jointly and severally, are liable to and shall pay to Claimant \$58,093.00.
2. That Respondents, jointly and severally, are liable to and shall pay to Claimant pre-award interest of \$10,000.00.
3. That Respondents, jointly and severally, are liable to and shall pay to Claimant attorney's fees in the amount of \$14,500.00.
4. That Respondents, jointly and severally, are liable to and shall reimburse to Claimant \$650.00 for the filing fee and hearing session deposit previously submitted to the NASD Regulation.
5. That the claim for punitive damages is denied.
6. That any and all relief not specifically addressed herein is denied.

FORUM FEES

Pursuant to Rule 10333(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed:

4 sessions x \$500.00 = \$2,000.00

Forum Fees are assessed against Respondents Janney, Montgomery Scott and Timothy Ennis, jointly and severally. Respondents are to receive credit for the \$500.00 hearing session deposit previously submitted by Claimant and reimbursed by Respondents, leaving Respondents with a net assessment due of \$1,500.00.

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

DATE

5/28/97

CONCURRING ARBITRATORS' SIGNATURES



Guillermo L. Bosch, Presiding
Public Arbitrator

Doris J. Dabrowski
Public Arbitrator

Lawrence J. Nowlan
Industry Arbitrator

Date Decision Served by the NASD Regulation:

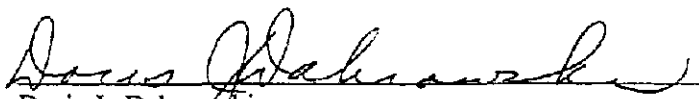
JUNE 11, 1997

DATE

CONCURRING ARBITRATORS' SIGNATURES

Guillermo L. Bosch, Presiding
Public Arbitrator

5/30/97


Doris J. Dabrowski
Public Arbitrator

Lawrence J. Nowlan
Industry Arbitrator

Date Decision Served by the NASD Regulation: June 11, 1997

DATE

CONCURRING ARBITRATORS' SIGNATURES

Guillermo L. Bosch, Presiding
Public Arbitrator

Doris J. Dabrowski
Public Arbitrator

May 27, 1997

Lawrence J. Nowlan
Lawrence J. Nowlan
Industry Arbitrator

Date Decision Served by the NASD Regulation:

June 11, 1997