

AWARD

NASD Regulation, Inc. Office of Dispute Resolution

In the Matter of the Arbitration Between

Larry Craig Clutter, and
Roxe Ann Clutter

Claimants,

and

No. 96-02870

Dennis Wu,

Respondent.

REPRESENTATION OF PARTIES

Claimants Larry Craig Clutter (individually referred to as "Clutter") and Roxe Ann Clutter (collectively referred to as "Claimants") appeared pro se.

Respondent Dennis Wu ("Wu" or "Respondent") appeared pro se.

CASE INFORMATION

Claimants Larry Craig Clutter and Roxe Ann Clutter's Statement of Claim was filed on or about July 1, 1996.

Claimants Larry Craig Clutter and Roxe Ann Clutter's Joint Submission Agreement was signed on July 1, 1996.

Respondent Dennis Wu's Statement of Answer was filed on or about August 8, 1996.

Respondent Dennis Wu's Submission Agreement was signed on August 2, 1996.

Claimants Larry Craig Clutter and Roxe Ann Clutter's Statement of Rebuttal to the Statement of Answer was filed on or about August 19, 1996.

Respondent Dennis Wu's Response to the Statement of Rebuttal was filed on or about December 6, 1996.

HEARING INFORMATION

Pursuant to Section 10303 of the NASD Code of Arbitration Procedure (the "Code"), this matter was decided solely upon the pleadings and evidence filed by the parties.

CASE SUMMARY

Claimants Larry Craig Clutter and Roxe Ann Clutter alleged that they received a "cold call" from Respondent Dennis Wu, a stock broker with Principal Financial Group. Claimants contended that, based on the Respondent's recommendations, Claimants purchased 1000 shares of Bethlehem Steel stock and 1000 shares of Battle Mountain Gold stock. Claimants asserted that the investments were purchased with the urging of Respondent that he was sure that the market was right for these stocks to surge and that Respondent assured Claimants that he was capable of picking a stock when it was ready to surge upward. Claimants maintained that the investments did not surge, but fell flat, and that Claimants held their positions at the insistence of Respondent to stay put until the stocks rebounded. Claimants alleged that it became evident that the stocks were not going to move up and Respondent then urged them to sell. Claimants contended that Respondent's two recommendations were obvious mistakes.

Respondent Wu denied all liability to Claimants in his Statement of Answer. Respondent alleged that Clutter presented himself as a knowledgeable and experienced investor who had accounts with many brokerage firms. Respondent contended that, as for his investment strategies, Clutter stated that he was an aggressive investor, and, if he wanted to be conservative, he would have put his money in the bank. Respondent denied that he promised that the stocks were ready to surge upward or were guaranteed sure winners. Respondent asserted that he did his best for Claimants, but could not guarantee profits.

RELIEF REQUESTED

Claimants requested an award in the amount of \$9,500 for compensatory damages, treble damages and punitive damages.

Respondent requested that the claims asserted against him be dismissed in their entirety.

AWARD


After considering the pleadings and evidence filed by the parties, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. That the Statement of Claim is hereby dismissed in its entirety with prejudice; and
2. That other than forum fees, which are addressed below, all other claims and requests for relief not specifically awarded here are, and each of them, hereby denied with prejudice.

FORUM FEES

Pursuant to §10332(c) of the Code, NASD Regulation, Inc. Office of Dispute Resolution shall retain the non-refundable filing fee in the amount of \$75 and shall retain as forum fees the hearing session deposit in the amount of \$75 previously deposited with NASD Regulation, Inc. Office of Dispute Resolution by Claimants.

Arbitrator's Signature



Barry Goldman, Esq.
Chairperson
Public Arbitrator

1/13/97
Dated:

For NASD Regulation use only:

Date Award served on the parties: JANUARY 22, 1997