

**NASD REGULATION, INC.  
OFFICE OF HEARING OFFICERS**

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

Respondent.

Non-Summary Suspension Proceeding  
No. ARB010018

Hearing Officer—Andrew H. Perkins

**ORDER DISMISSING PROCEEDING**

On July 25, 2001, the Complainant filed a Notice of Stay that states that this proceeding is stayed by operation of Rule 62(d) of the Federal Rules of Civil Procedure, which Rule governs the stay of a federal court action to enforce a judgment where the judgment debtor files an appeal and posts a supersedeas bond. The Complainant further states that it first learned of the bond when the Respondent filed its Request for Hearing on July 16, 2001. The Respondent attached a copy of the order entered by the United States District Court for the District of \_\_\_\_\_ dated March 9, 2001, that approved the Stipulated Motion for Approval of Supersedeas Bond and Order of Stay Pending Appeal. (Request, Ex. C.) Thus, the federal court action was stayed at the time the Office of Dispute Resolution, NASD Regulation, Inc. sent the Respondent notice that its membership in the Association would be suspended for

**This Decision has been published by the NASDR Office of Hearing Officers and should be cited as OHO Redacted Decision ARB010018.**

failure to pay an arbitration award and supplemental arbitration award that were confirmed as a judgment of the District Court.<sup>1</sup>

In consideration of the foregoing, the Hearing Officer finds that this proceeding was improvidently commenced. When the District Court stayed further proceedings to enforce the judgment based on the arbitration award and supplemental award, it relieved the Respondent from the obligation to pay the debt until the appeal terminated,<sup>2</sup> if at all. In addition, the supersedeas bond now assures payment of the judgment in the event the arbitration claimants prevail on appeal. Accordingly, the Hearing Officer dismisses this proceeding without prejudice to the right of the Association to recommence a Non-Summary Suspension Proceeding if the Respondent fails to timely satisfy the judgment following the termination of the stay entered by the District Court.

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Andrew H. Perkins  
Hearing Officer

Dated: Washington, DC  
July 25, 2001

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<sup>1</sup> The arbitration claimants filed a motion to confirm both the award and the supplemental award, and the Respondent filed a timely motion to vacate both the award and the supplemental award. The District Court granted the claimants' motions and denied the Respondent's motion to vacate. The Respondent's appeal from that order is pending in the United States Court of Appeals for the Ninth Circuit. (Request, Ex. B.)

<sup>2</sup> See NASD Notices to Members 00-55, 2000 NASD LEXIS 63, \*6 n.5 (2000) ("An award must be paid immediately when a court denies a motion to vacate or modify the award, absent a court order staying compliance with the award.")