

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

Estate of Alfred R. Heiman

and

01-02490
Oklahoma City, Oklahoma

Name of Respondents

Summit Equities, Inc.

REPRESENTATION OF PARTIES

Estate of Alfred R. Heiman ("**Claimant**") was represented by Lee D. Sossen, Esq.

Summit Equities, Inc. ("**Respondent**") was represented by Larry W. Johnson, Esq.

CASE INFORMATION

The Statement of Claim was filed on or about May 11, 2001. Submission Agreement of Claimant Alfred R. Heiman was signed on May 11, 2001.

Statement of Answer was filed by Respondent Summit Equities, Inc. on or about July 5, 2001. Submission Agreement of Respondent Summit Equities, Inc. was signed on July 5, 2001.

CASE SUMMARY

Claimant alleged that Summit Equities, Inc. failed to perform its obligations under the stop loss limit order agreement memorialized in the Stop Loss Agreement. In the Statement of Claim, Claimant specifically alleged as follows:

By that agreement, Summit agreed to sell any security that declined in price a specified percentage, either 20% or 30%, depending on the gain that had been previously achieved. Claimant alleges that despite numerous securities falling the requisite amount to trigger a stop loss sale, Summit failed to sell any securities pursuant to the Stop Loss Agreement.

Respondents denied the allegations set forth in the Statement of Claim. Respondents specifically stated Claimant should be required to prove his claims beyond a preponderance of the evidence if Claimant can do so.

RELIEF REQUESTED

1. Claimant requested an award in the amount of \$544,730.00.
2. Enter judgment against Summit Equities, Inc. ("Summit") in an amount equal to the management fees Heiman paid Summit under the Management Agreement, as reimbursement for Summit's failure properly to manage Heiman's money.
3. Grant Heiman such other and further relief as the Panel deems just and proper.

Respondents requested that the claims asserted against them be denied in its entirety.

OTHER ISSUES CONSIDERED & DECIDED

The parties submitted post-hearing submissions at the panel's request.

During the course of these proceedings, Mr. Alfred R. Heiman passed away. The estate of Alfred R. Heiman has proceeded with the arbitration.

AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing and the post-hearing submissions, if any, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Summit Equities, Inc. shall pay to the Estate of Alfred R. Heiman compensatory damages of \$493,585.98 plus 6% interest per annum beginning May 11, 2001 and shall continue until paid in full for a total of \$66,634.11.
2. Summit Equities, Inc. shall reimburse the claimant for the filing fee.
3. That to the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto are denied with prejudice.
4. Other than the Forum Fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including but not limited to attorneys fees.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$375.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated person at the time of the event giving rise to the dispute. In this matter, the member firm is Summit Equities, Inc.

Member surcharge = \$2,000.00

Pre-hearing process fee = \$ 600.00

Hearing process fee = \$3,500.00

Adjournment Fees

Adjournments requested during these proceedings:

February 26-27, 2002, adjournment by the Estate of Alfred R. Heiman = \$0.00

No postponement fees were assessed pursuant to Rule 10403 of the NASD Code of Arbitration Procedure.

Forum Fees and Assessments

The Arbitration Panel assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

Two [2] Pre-hearing sessions with Panel x \$1,200.00 = 2,400.00

Pre-hearing conferences: November 11, 2001 1 session
April 2, 2003 1 session

Two [2] Hearing sessions x \$1,200.00 = \$2,400.00

Hearing Date(s): June 12, 2003 2 sessions
Total Forum Fees = \$4,800.00

The Arbitration Panel has assessed \$4,800.00 of the forum fees to Summit Equities, Inc.

Fee Summary

Claimant, the Estate of Alfred R. Heiman, shall be and hereby is liable for:

| | |
|---|--------------|
| Initial Filing Fee | = \$ 375.00 |
| <u>Adjournment Fee</u> | = \$ 00.00 |
| Total Fees | = \$ 375.00 |
| <u>Less payments</u> | = \$ 1575.00 |
| Balance to be refunded by NASD Dispute Resolution | = \$1,200.00 |

Respondent, Summit Equities, Inc., shall be and hereby is liable for:

| | |
|---|----------------|
| Member Fees | = \$ 6,100.00 |
| <u>Forum Fees</u> | = \$ 4,800.00 |
| Total Fees | = \$ 10,900.00 |
| <u>Less payments</u> | = \$ 13,800.00 |
| Balance to be refunded by NASD Dispute Resolution | = \$2,900.00 |

ARBITRATION PANEL

James E. Golden, Jr., Esq. - Public Arbitrator, Presiding Chair
Raymond E. Tompkins, J.D. - Public Arbitrator
Rodney J. Heggy - Non-Public Arbitrator

Concurring Arbitrators:

/s/ James E. Golden, Jr., Esq.
James E. Golden, Jr., Esq.
Public Arbitrator, Presiding Chair

7/16/03
Signature Date

/s/ Raymond E. Tompkins, J.D.
Raymond E. Tompkins, J.D.
Public Arbitrator

7/21/03
Signature Date

/s/ Rodney J. Heggy
Rodney J. Heggy
Non-Public Arbitrator

07/22/03
Signature Date

Hearing Date(s): June 12, 2003 2 sessions
Total Forum Fees \$4,800.00

The Arbitration Panel has assessed \$4,800.00 of the forum fees to Summit Equities, Inc.

Fee Summary

Claimant, the Estate of Alfred R. Heiman, shall be and hereby is liable for:

| | |
|---|--------------|
| Initial Filing Fee | = \$ 375.00 |
| Adjournment Fee | = \$ 00.00 |
| Total Fees | = \$ 375.00 |
| Less payments | = \$ 1575.00 |
| Balance to be refunded by NASD Dispute Resolution | = \$1,200.00 |

Respondent, Summit Equities, Inc., shall be and hereby is liable for:

| | |
|---|----------------|
| Member Fees | = \$ 6,100.00 |
| Forum Fees | = \$ 4,800.00 |
| Total Fees | = \$ 10,900.00 |
| Less payments | = \$ 13,800.00 |
| Balance to be refunded by NASD Dispute Resolution | = \$2,900.00 |

ARBITRATION PANEL

James E. Golden, Jr., Esq. - Public Arbitrator, Presiding Chair
Raymond E. Tompkins, J.D. - Public Arbitrator
Rodney J. Heggy - Non-Public Arbitrator

Concurring Arbitrators:


James E. Golden, Jr., Esq.
Public Arbitrator, Presiding Chair

7/16/03
Signature Date

Raymond E. Tompkins, J.D.
Public Arbitrator

Signature Date

Rodney J. Heggy
Non-Public Arbitrator

Signature Date

Hearing Date(s): June 12, 2003 2 sessions
Total Forum Fees = \$4,800.00

The Arbitration Panel has assessed \$4,800.00 of the forum fees to Summit Equities, Inc.

Fee Summary

Claimant, the Estate of Alfred R. Heiman, shall be and hereby is liable for:

| | |
|---|--------------|
| Initial Filing Fee | = \$ 375.00 |
| <u>Adjournment Fee</u> | = \$ 00.00 |
| Total Fees | = \$ 375.00 |
| <u>Less payments</u> | = \$ 1575.00 |
| Balance to be refunded by NASD Dispute Resolution | = \$1,200.00 |

Respondent, Summit Equities, Inc., shall be and hereby is liable for:

| | |
|---|----------------|
| Member Fees | = \$ 6,100.00 |
| <u>Forum Fees</u> | = \$ 4,800.00 |
| Total Fees | = \$ 10,900.00 |
| <u>Less payments</u> | = \$ 13,800.00 |
| Balance to be refunded by NASD Dispute Resolution | = \$2,900.00 |

ARBITRATION PANEL

James E. Golden, Jr., Esq. - Public Arbitrator, Presiding Chair
Raymond E. Tompkins, J.D. - Public Arbitrator
Rodney J. Heggy - Non-Public Arbitrator

Concurring Arbitrators:

James E. Golden, Jr., Esq.
Public Arbitrator, Presiding Chair


Raymond E. Tompkins, J.D.
Public Arbitrator

Rodney J. Heggy
Non-Public Arbitrator

Signature Date

7/21/03
Signature Date

Signature Date

Hearing Date(s): June 12, 2003 2 sessions
Total Forum Fees = \$4,800.00

The Arbitration Panel has assessed \$4,800.00 of the forum fees to Summit Equities, Inc.

Fee Summary

Claimant, the Estate of Alfred R. Heiman, shall be and hereby is liable for:

| | |
|---|---------------------|
| Initial Filing Fee | = \$ 375.00 |
| <u>Adjournment Fee</u> | <u>= \$ 00.00</u> |
| Total Fees | = \$ 375.00 |
| <u>Less payments</u> | <u>= \$ 1575.00</u> |
| Balance to be refunded by NASD Dispute Resolution | = \$1,200.00 |

Respondent, Summit Equities, Inc., shall be and hereby is liable for:

| | |
|---|-----------------------|
| Member Fees | = \$ 6,100.00 |
| <u>Forum Fees</u> | <u>= \$ 4,800.00</u> |
| Total Fees | = \$ 10,900.00 |
| <u>Less payments</u> | <u>= \$ 13,800.00</u> |
| Balance to be refunded by NASD Dispute Resolution | = \$2,900.00 |

ARBITRATION PANEL

James E. Golden, Jr., Esq. - Public Arbitrator, Presiding Chair
Raymond E. Tompkins, J.D. - Public Arbitrator
Rodney J. Heggy - Non-Public Arbitrator

Concurring Arbitrators:

James E. Golden, Jr., Esq.
Public Arbitrator, Presiding Chair

Signature Date

Raymond E. Tompkins, J.D.
Public Arbitrator

Signature Date



Rodney J. Heggy
Non-Public Arbitrator



Signature Date