

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Slawomir Sieminski and Barbara Sieminski, Claimants v. Investec Ernst & Company and Regal Discount Securities, Respondents

Case Number: 01-02829

Hearing Site: San Francisco, California

REPRESENTATION OF PARTIES

For Claimants:

Slawomir Sieminski
Fremont, California

For Respondent Investec Ernst & Company:

Rita Burghardt McDonough
Investec USA Holdings Corp.
New York, New York

For Respondent Regal Discount Securities:

Nicholas P. Iavarone
Bellows and Bellows, P.C.
Chicago, Illinois

CASE INFORMATION

Statement of Claim filed on or about: May 30, 2001

Claimants Slawomir Sieminski and Barbara Sieminski's Uniform Submission Agreement signed: May 21, 2001

Respondent Investec Ernst & Company's ("Investec") Statement of Answer filed on or about: July 9, 2001

Respondent Regal Discount Securities' ("Regal") Statement of Answer filed on or about: August 29, 2001

Respondent Investec's Uniform Submission Agreement signed: July 9, 2001

Respondent Regal's Uniform Submission Agreement signed: July 6, 2001

CASE SUMMARY

Referencing their investment in ESS Technology Inc. stock, Claimants alleged that Respondents have acted irresponsibly, contrary to industry standards and its own procedures, and in violation of the Margin Agreement, have provided false information, have executed unauthorized transactions in Claimants' margin account, have failed to keep Claimants' personal data in a safe and orderly manner on file, and that Respondents' actions have caused Claimants' losses of \$16,418.75.

Respondents denied Claimants' allegations of wrongdoing and denied any liability to Claimants.

RELIEF REQUESTED

Claimant requested damages in the amount of \$16,418.75, plus punitive damages of \$5,000.00 and other applicable fees.

Respondents requested dismissal of Claimants' claims.

OTHER ISSUES CONSIDERED AND DECIDED

On or about May 14, 2002, Presiding Arbitrator Reed H. Bement granted Respondents' request to participate at the evidentiary hearing by telephone.

AWARD

After considering the pleadings, testimony, and evidence presented at the hearing, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondent Regal is solely liable for and shall pay to Claimants the sum of \$9,100.00 in satisfaction of Claimant's claims.
- 2) Respondent Regal is solely liable for and shall pay to Claimants the sum of \$125.00 as reimbursement for Claimants' filing fee.
- 3) All claims by Claimants against Respondent Investec are dismissed.
- 4) Claimants' claim for punitive damages is denied.
- 5) Each party shall bear its own costs, including attorney's fees.
- 6) All other relief not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD-DR received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee = \$125.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute.

Investec is a party and the following fees are assessed:

Member Surcharge = \$400.00

Total Member Fees = \$400.00

Regal is a party and the following fees are assessed:

Member Surcharge = \$400.00

Total Member Fees = \$400.00

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair/Panel. The following fees are assessed:

(1) Pre-hearing conference session with the Panel @ \$300.00/session = \$300.00

Pre-hearing conference: May 14, 2002 1 session

(1) Hearing session @ \$300.00/session = \$300.00

Hearing: August 23, 2002 1 session

Total Forum Fees = \$600.00

The Panel assessed the \$600.00 in forum fees to Respondent, Regal.

Administrative Costs

Administrative costs are expenses incurred because a party requested additional services beyond the normal administrative services. These additional services include, but are not limited to,

additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, security, and other requests.

The parties did not incur administrative costs.

Fee Summary

1. Claimants are charged with the following fees and costs:

Initial Filing Fee	= \$ 125.00
<u>Administrative Costs</u>	= \$ 0.00
Total Fees	= \$ 125.00
<u>Less Payments</u>	= \$ (425.00)
Refund Due Claimants	= \$ (300.00)

2. Respondent, Investec, is charged with the following fees and costs:

Member Fees	= \$ 400.00
<u>Administrative Costs</u>	= \$ 0.00
Total Fees	= \$ 400.00
<u>Less Payments</u>	= \$(1,050.00)
Refund Due Investec	= \$ (650.00)

3. Respondent, Regal, is charged with the following fees and costs:

Member Fees	= \$ 400.00
Forum Fees	= \$ 600.00
<u>Administrative Costs</u>	= \$ 0.00
Total Fees	= \$ 1,000.00
<u>Less Payments</u>	= \$ (400.00)
Balance Due NASD-DR	= \$ 600.00

All balances are payable to NASD Dispute Resolution and are payable upon the receipt of the Award pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Reed H. Bement, Esq.

Public Arbitrator, Presiding Chair

Presiding Arbitrator's Signature

Reed H. Bement, Esq.
Chair, Public Arbitrator

Signature Date

Date of Service

ARBITRATION PANEL

Reed H. Bement, Esq.

Public Arbitrator, Presiding Chair

Presiding Arbitrator's Signature

Reed H. Bement
Reed H. Bement, Esq.
Chair, Public Arbitrator

9/5/07
Signature Date

Date of Service