

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Names of Claimants

Larry E. Sandburg, Individually and
Larry E. Sandburg as beneficiary of
Delaware Charter Guaranty & Trust Company,
f/b/o Larry E. Sandburg IRA

and

Case Number: 02-02808
Hearing Site: Omaha, Nebraska

Names of Respondents

Donald & Company Securities, Inc., and
Bruce L. Troyer

REPRESENTATION OF PARTIES

Larry E. Sandburg, Individually and Larry E. Sandburg as beneficiary of Delaware Charter Guaranty & Trust Company, f/b/o Larry E. Sandburg IRA ("Claimants") were represented by William R. King, Esq., Davis Brown, Koehn, Shors & Roberts, PC.

Donald & Company Securities, Inc. ("Donald") was represented by Barbara Bennett, Esq., Donald & Co. Securities, Inc., Des Moines, Iowa, until on or about October 30, 2002. Respondent Donald did not appear at hearing

Bruce L. Troyer ("Troyer") did not appear at hearing.

CASE INFORMATION

The Statement of Claim was filed on or about May 14, 2002. The Submission Agreement of Claimant Larry E. Sandburg, Individually and Larry E. Sandburg as beneficiary of Delaware Charter Guaranty & Trust Company, f/b/o Larry E. Sandburg IRA was signed on or about April 11, 2002.

Statement of Answer was filed by Respondent Donald on or about August 5, 2002. The Submission Agreement of Respondent Donald & Company Securities, Inc. was signed on or about August 2, 2002, by Barbara Bennett, Director-Legal.

CASE SUMMARY

Claimants asserted the following causes of action: unauthorized trading, breach of fiduciary duty, fraud, deceit, Iowa Code section 502.41 breach of contract, and breach of the implied covenant of good faith and fair dealing. The causes of action relate to alleged unauthorized margin trading in various securities and a forged signature on a margin trading authorization document.

Unless specifically admitted in its Answer, Respondent Donald denied the allegations made in the Statement of Claim and asserted the affirmative defenses including the following: the Statement of Claim fails to state a claim upon which relief can be granted, Claimants' claims for recovery are barred by the equitable doctrines of ratification, estoppel

waiver, laches, and consent, Claimant was fully aware, from the onset, of the risks of profits and losses associated with his investments and voluntarily assumed the risks, Claimants' claims are barred from recovery by the equitable doctrine of unclean hands.

RELIEF REQUESTED

Claimants requested an award in the amount of compensatory damages estimated between \$90,000.00 and \$200,000.00, plus estimated punitive damages of \$100,000.00, interest, costs and attorneys fees.

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded their costs and attorneys' fees.

OTHER ISSUES CONSIDERED & DECIDED

Upon review of the file and the representations made by/on behalf of the Claimant, the undersigned arbitrators have determined that Respondents Donald & Company Securities, Inc., and Bruce L. Troyer have been properly served with the Statement of Claim pursuant to Rule 10302 and Rule 10314 of the NASD Code of Arbitration Procedure (the "Code"). The undersigned arbitrators have also determined that Respondent Donald & Company Securities, Inc., and Bruce L. Troyer have received due notice of the hearing as required under Rule 10315 of the Code and that arbitration of the matter would proceed pursuant to Rule 10318 of the Code.

Respondent, Bruce L. Troyer, did not file with the NASD Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to Rule 10301 of the NASD Code of Arbitration Procedure (the "Code") and is bound by the determination of the arbitration panel on all issues submitted.

At hearing, Claimants voluntarily dismissed all claims filed on behalf of Larry E. Sandburg's IRA account with prejudice. The Panel did not adjudicate any claims of the IRA.

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 original(s) remain on file with the NASD Dispute Resolution (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.) Respondents, Donald & Company Securities, Inc., and Bruce L. Troyer, are jointly and severally liable for and shall pay to Claimant, Larry E. Sandburg, the sum of \$143,176.23 in compensatory damages;
- 2.) Respondents, Donald & Company Securities, Inc., and Bruce L. Troyer, are jointly and severally liable for and shall pay to Claimant, Larry E.

Sandburg, the sum of \$35,339.00 in attorneys fees pursuant to Iowa statute 625.29;

- 3.) Respondents, Donald & Company Securities, Inc., and Bruce L. Troyer, are jointly and severally liable for and shall pay to Claimant, Larry E. Sandburg, interest pursuant to Iowa statute 535.30 at the rate of 10% per annum from and including the service date of this award through and including the date this award is paid in full;
- 4.) Respondents, Donald & Company Securities, Inc., and Bruce L. Troyer, are jointly and severally liable for and shall pay to Claimant, Larry E. Sandburg, the sum of \$300.00 in filing fees retained by NASD;
- 5.) That other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter;
- 6.) That any relief not specifically enumerated, including punitive damages and attorney fees, is hereby denied with prejudice.

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 = \$ 300.00

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 events giving rise to the dispute. In this matter, the member firm is Donald & Company Securities, Inc.

Member surcharge = \$1,700.00
Pre-hearing process fee = \$ 750.00
Hearing process fee = \$2,750.00

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 arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with Panel x \$1,125.00 = \$1,125.00
Pre-hearing conference: November 18, 2002 1 session

One (1) Hearing session x \$1,125.00 = \$1,125.00

Hearing Date: March 25, 2002 1 session

Total Forum Fees = \$2,250.00

The Arbitration Panel has assessed \$2,250.00 of the forum fees jointly and severally to Donald & Company Securities, Inc., and Bruce L. Troyer.

Fee Summary

Claimant, Larry E. Sandburg, Individually, is liable for:

<u>Initial Filing Fee</u>	= \$ 300.00
<u>Total Fees</u>	= \$ 300.00
<u>Less payments</u>	= \$ 1,425.00
Balance refunded by NASD Dispute Resolution	= \$ 1,125.00

Respondent, Donald & Company Securities, Inc., is liable for:

<u>Member Fees</u>	= \$ 5,200.00
<u>Total Fees</u>	= \$ 5,200.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 5,200.00

Respondents, Donald & Company Securities, Inc., and Bruce L. Troyer, are jointly and severally liable for:

<u>Forum Fees</u>	= \$ 2,250.00
<u>Total Fees</u>	= \$ 2,250.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 2,250.00

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

ARBITRATION PANEL

Robert Berkshire, Esq. - Public Arbitrator, Presiding Chair
Stephen E. Gehring, Esq. - Public Arbitrator
Thomas J. Pleiss - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Robert Berkshire, Esq.
Robert Berkshire, Esq.
Public Arbitrator, Presiding Chair

03/28/03
Signature Date

/s/ Stephen E. Gehring, Esq.
Stephen E. Gehring, Esq.
Public Arbitrator

03/31/03
Signature Date

/s/ Thomas J. Pleiss
Thomas J. Pleiss
Non-Public Arbitrator

03/28/03
Signature Date

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Date of Service (For NASD office use only)

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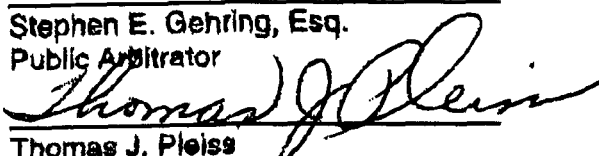
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