

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between)
)
GARY OZGA,)
) Claimant,) Case #88-00591
) Award
vs.)
)
GRAYSTONE NASH, INC., SEAN BOYLE)
and DENNIS WILLIAMS,)
) Respondents.)
)

Heard before the members of the Arbitration Panel:

Arieh Leo Douer
Marvin A. Berkowitz, M.D.
Joseph M. Luby

CASE SUMMARY

This claim was filed with the NASD, Inc. on February 24, 1988. The hearing was conducted in Fort Lauderdale, Florida on February 12, 1990 with a total of two sessions.

Claimant, Dr. Gary Ozga ("Ozga"), alleged that Respondents, Graystone Nash, Inc. ("Graystone"), Sean Boyle ("Boyle") and Dennis Williams ("Williams"), failed to execute sell orders of his entire portfolio of common stocks at the bid price on October 27, 1987 or at all; that Respondents sold certain of his securities at prices less than the authorized prices; that Respondents were negligent; breached their contract with Claimant; and, violated Section 517.301, Florida Statutes.

Graystone denied all allegations of wrongdoing; alleged that no contract for same day execution was made with Claimant; that Claimant was aware of the turbulent market conditions and that all prices were subject to change; and, that all executions would be made at market price. Graystone cross claimed against Boyle for indemnification.

Boyle denied all allegations of wrongdoing; alleged that he did advise Ozga that all his stocks would be sold at the bid price on October 27, 1987; that Ozga was not his customer and Boyle was only acting as an assistant to Williams; that he might have been able to assist Ozga if Ozga had telephoned him in his Chicago Office.

Williams denied all allegations of wrongdoing; alleged that his wife had died on October 22, 1987 and, therefore, Williams was on a temporary leave of absence; that Claimant did not give Williams the sell order and that Williams had no personal knowledge of the content of Claimant's conversation with Boyle; and, that if such orders were entered, it was the responsibility of Graystone to execute them. Williams cross claimed against Graystone for indemnification, alleging that any recovery Claimant may obtain would be based upon the negligence of Graystone.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$17,568.75; interest at the legal rate from October 27, 1987 in the amount of \$4,831.41, for a total of \$22,400.16; punitive damages; attorney's fees; costs; and, damages pursuant to Sections 517.211 and 517.241, Florida Statutes.

Graystone requested judgment against Boyle for all sums which may be found against Graystone.

Boyle concurred with Claimant's request.

Williams requested dismissal of the claims against him; and, attorney's fees and costs pursuant to Section 517.105, Florida Statutes. Williams further requested that Graystone pay any sums that may be found due from Williams; costs and attorney's fees; and, other relief.

AWARD

On February 12, 1990, the arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant on April 1, 1988, and by Respondents Graystone on July 26, 1988; Boyle on August 3, 1988; and, Williams on June 15, 1989. The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has determined in full and final resolution of the issues submitted for determination as follows:

1. 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 originals remain on file with the NASD, Inc.
2. Respondents, Graystone, Boyle and Williams, are hereby liable, jointly and severally, and shall pay to the Claimant the amount of Seventeen Thousand Five Hundred Sixty Eight and 75/100 (\$17,568.75) Dollars, plus interest at the legal rate of 12% per annum from October 27, 1987 in the amount of Four Thousand Eight Hundred Thirty One and 41/100 (\$4,831.41) Dollars, for a total due to Claimant of Twenty Two Thousand Four Hundred and 16/100 (\$22,400.16) Dollars.
3. The cross claims of Graystone and Boyle are hereby dismissed.
4. Respondents, Graystone, Boyle and Williams, are hereby liable, jointly and severally, and shall pay to the Claimant the further amount of Three Thousand and 00/100 (\$3,000.00) Dollars for attorney's fees pursuant to Section 517.211, Florida Statutes.
5. Claimant's request for punitive damages is hereby denied.
6. Pursuant to Section 43 of the Code of Arbitration Procedure, Respondents, Graystone, Boyle and Williams, are hereby assessed forum fees, jointly and severally, in the amount of Eight Hundred and 00/100 (\$800.00) Dollars (\$400.00 x two sessions), of which Four Hundred and 00/100 (\$400.00) Dollars shall be paid directly to the Claimant and Four Hundred and 00/100 (\$400.00) Dollars shall be paid to the National Association of Securities Dealers, Inc. The NASD, Inc. shall retain the Four Hundred and 00/100 (\$400.00) Dollar filing fee previously deposited by the Claimant for such forum fees.

7. The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding.

OTHER ISSUES

None.

ARBITRATORS CONCURRING

Arieh Leo Douer, Marvin A. Berkowitz M.D. and Joseph M. Luby

Received this 21st day of February 1990.