

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

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In the Matter of the Arbitration Among *

Hsue Tung *

Claimant *

vs * Award

Vanderbilt Securities, Inc. * 88-01993

and *

Paul Carvajal *

Respondents *

CASE SUMMARY

In a claim filed by the Claimant on June 21, 1988, Claimant Hsue Tung ("Claimant") alleged the Respondent, Paul Carvajal ("Carvajal") made material misrepresentations to Claimant to induce the Claimant to purchase First Houston Capital Resources Fund ("Fund"). Claimant alleged that Carvajal sold to Claimant the Fund although Carvajal was not registered to sell securities to a Maryland resident; and that Respondent Vanderbilt Securities, Inc. ("Vanderbilt") failed to supervise the actions of its agent, Carvajal.

Respondent Carvajal did not submit an answer in reply to Claimant's claim.

Respondent Vanderbilt categorically denied all allegations asserted by the Claimant. Vanderbilt asserted a cross-claim against Carvajal and alleged that if it is found liable, that Carvajal should be held liable for all sums due and owing.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of

\$2,250.00 plus reasonable interest and attorney's fees.

Vanderbilt requested that all claims made by the Claimant be dismissed and requested costs and reasonable attorney's fees. Vanderbilt also requested judgment against Carvajal for all sums due in this action against Vanderbilt which may be found in favor of the Claimant.

AWARD

On September 14 and November 13, 1990, the undersigned arbitrator heard the controversy between the parties as set forth in submissions to arbitration signed by the Claimant, on June 13, 1988 and by Respondent Vanderbilt on July 27, 1988. Respondent Carvajal did not execute a submission agreement nor did he attend the hearing nor did he submit an answer. Pursuant to Section 12(a) of the Code of Arbitration Procedure, the presiding arbitrator exercised his jurisdiction over Respondent Carvajal. The hearing was held in Washington, D.C. consisted of 2 sessions. The presiding arbitrator, having considered the pleadings, the testimony, and the evidence presented at the hearing, has determined as follows:

1. That Respondent Carvajal failed to adequately advise the Claimant and/or misrepresented to the Claimant the risk involved in the purchase of the investment in issue in this case. The presiding arbitrator also concludes that Respondent Vanderbilt Securities, Inc. failed to adequately supervise Respondent Carvajal, who was acting within the scope of his employment, and unreasonably failed to discover that Respondent Carvajal sold securities to the Claimant in the State of Maryland, notwithstanding that Respondent Carvajal was not licensed to do so at the time of the sale. Based on the foregoing conclusions, the presiding arbitrator awards the Claimant the sum of TWO THOUSAND TWO HUNDRED FIFTY AND 00/100 DOLLARS (\$2,250.00) against Respondents Carvajal and Vanderbilt Securities, Inc. jointly and severally; and simple interest at the rate of eight percent per annum from February 19, 1986, the date of the sale of the securities in dispute, is awarded on this amount. This amount is due and payable according to the rules of the Association.
2. That Respondent Vanderbilt Securities cross-claim against Respondent Carvajal is denied in all respects.
3. That the filing fees paid to the Association by the Claimant and Respondent Vanderbilt Securities, Inc. are retained by the Association.
4. The parties shall each bear their respective costs,

including attorneys' fees.

PRESIDING ARBITRATOR

Stephen Crable
Stephen Crable

Dated: January 14, 1991