

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Harry R. Atkins and  
Gladys Atkins

Claimants

vs.

First Affiliated Securities, Inc. Respondents

CASE NO. 88-02554

SUMMARY OF ISSUES

The Claimants filed this claim with the NASD, Inc. on August 12, 1988, and alleged unauthorized trading, unauthorized debit balances, unauthorized trading strategies, e.g., naked calls and debit spreads, unauthorized movement of assets between two accounts, the dishonoring of a check made payable to Claimants in the amount of \$29,079.66 and the inaccurate reporting of Claimants' statements of accounts.

Respondent maintains that all trades executed in Claimants' accounts were authorized. Respondent asserted a Third Party Claim against Broadcast Capital Corporation for indemnification but withdrew said claim prior to the hearing.

DAMAGES AND RELIEF REQUESTED

Claimants amended their claim for damages to the amount of \$20,268.00 plus interest, costs, damages and attorney's fees. Respondent requested dismissal of claims and costs.

DAMAGES AND RELIEF AWARDED

On October 12, 1989, in San Francisco, California, in two (2) sessions, the undersigned arbitrator heard the controversy between the parties as set forth in submissions to arbitration signed by Claimants on September 1, 1988 and by Respondent on November 15, 1988. The arbitrator, 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 presiding arbitrator has decided in favor of Claimants on the following issues: The dishonored check in the amount of \$29,079.66 and the inaccurate reporting of Claimants' statements of accounts. Therefore, Respondent is liable for and shall pay to Claimants the sum of Four Hundred Dollars and Zero Cents (\$400.00).

2. The presiding arbitrator has decided in favor of the Respondent on all other claims with respect to the following issues: alleged unauthorized trading strategies, e.g., naked calls and debit

spreads, and unauthorized movement of assets between two accounts.

3. The parties shall each bear their respective costs including attorneys' fees.

4. Pursuant to Section 43 of the National Association of Securities Dealers, Inc. (NASD) Code of Arbitration Procedure, the NASD shall retain the \$200.00 filing fee previously deposited by the Claimant.

OTHER ISSUES

At the hearing Claimants amended the claim to \$20,268.00, and added the issue of interest incurred on a loan due to Respondent's "stop payment" on their final check.

DATE SERVED: 11/21/89

CONCURRING ARBITRATOR

  
Marcus Eugene Gracia, Jr.