

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

IN THE MATTER OF THE ARBITRATION BETWEEN :
: :
Hemeed Akhtar : :
: Claimant : :
: Case #88-02992 :
: :
vs. : :
: AWARD :
: :
: :
Buttonwood Securities Corp. :
George Hotz :
Merrill Lynch, Pierce, Fenner & Smith, Inc. :
Broadcort Capital Corp. :
: Respondents :

CASE SUMMARY

Claimant Hemeed Akhtar ("Akhtar") claims against Respondents Buttonwood Securities Corporation ("Buttonwood") and George Hotz ("Hotz"), arise out of a certain account held by Claimant with the Respondent Buttonwood. Claimant alleges that the Respondents breached their duty by posting erroneous transactions to Claimant's account on September 8, 1987, by refusing to permit Claimant to enter essential trades to the account after such date, and by liquidating Claimant's account.

Respondents deny any breach of duty and liability owed to Claimant with respect to the account. Buttonwood contends that the firm is not liable to Claimant because of the Claimant's breach of the option agreement. Buttonwood additionally asserts a counterclaim against Claimant for a debit balance outstanding and a third party claim against Merrill Lynch and Broadcort based on a clearing agreement with Merrill Lynch. Merrill Lynch and Broadcort assert that the erroneous posting to Claimant's account did not cause Claimant to suffer any losses.

RELIEF REQUESTED

Claimant requested damages in the amount of \$30,000.00, interest, costs and expenses, including attorney's fees. The Respondent Buttonwood asserts a counterclaim against the Claimant in the amount of \$6,356.77 and a third-party claim against Merrill Lynch and Broadcort. Respondents requested a dismissal of the claim in its entirety.

AWARD

On January 24 and February 5, 1990, said dates representing two hearing sessions in Boston, Massachusetts, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant Hemeed Akhtar on September 15, 1988 and by Respondents Buttonwood Securities Corporation, Broadcast Capital Corporation and Merrill Lynch, Pierce, Fenner & Smith, Inc. on January 20, 1989, August 24, 1989 and December 12, 1989, respectively. The Respondent George Holtz did not submit a Uniform Submission Agreement; however, George Holtz by his counsel Mr. Moynihan, did appear January 24 and February 5, 1990, but he was not physically present. The Respondent Buttonwood Securities Corporation by its counsel, Ms. Friedman, did appear January 24, 1990. Respondent Broadcast Capital Corp. did not appear either date. The initial claim was filed on September 15, 1988.

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 as follows:

1. The arbitration panel noted for the record that Buttonwood Securities Corp. did not appear at the hearing despite adequate notice from the NASD;
2. That Buttonwood's nonappearance was indicative that it was not able to go forward;
3. That Buttonwood's counterclaim against Akhtar is dismissed;
4. That Buttonwood's third-party claim against Merrill Lynch is dismissed;
5. That Buttonwood's third-party claim against Broadcast is dismissed;
6. All references in this proceeding to Buttonwood apply to J.T. Moran and any other assignees;
7. All claims asserted by any party against George Holtz are dismissed;
8. The panel was advised by the parties that the Claimant Hemeed Akhtar and the Respondents Merrill Lynch, Pierce, Fenner & Smith, Inc. and Broadcast Capital Corp. had agreed to a settlement;
9. The parties shall each bear their respective costs including attorney's fees.
10. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$400.00 filing fee previously deposited by the Claimant as costs of the initial hearing session conducted in this matter.

CONCURRING ARBITRATORS

Julien F. Begien
JULIEN F. BEGIE

William A. Barrett
WILLIAM A. BARRETT

Arthur E. Flint
ARTHUR E. FLINT

DATED: MAY 15, 1990