

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of Arbitration Between

CHARLOTTE PAPADAKIS

Claimant

NASD NO. 88-03121

v.
SANDHURST SECURITIES, LTD.
and IRVING SIMON

Respondents

CASE SUMMARY

Charlotte Papadakis ("Claimant") alleges that Irving Simon ("Respondent"), an account representative employed by Sandhurst Securities, Ltd., made unauthorized trades and unauthorized purchases on margin, made unsuitable securities purchases and churned the account.

Respondent filed no submission agreement or Statement of Answer.

RELIEF REQUESTED

Claimant requests that damages in the amount of \$100,000 representing actual losses; unrealized losses; all interest and commissions; all costs of collection, including reasonable attorney's fees and punitive damages.

AWARD

On October 18, 1989, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on October 5, 1988 by Claimant Charlotte Papadakis. Irving Simon did not file an answer or a Submission Agreement.

Date Served : 1-25-90

PROCEDURAL SUMMARY

The NASD staff had numerous telephone conversations with Respondent Irving Simon previous to the hearing date. Early on October 17, 1989, Mr. Simon indicated that he would attend the hearing. That afternoon, in another telephone conversation with the NASD staff, Mr. Simon indicated that he would not be able to attend the hearing because of market volatility. Therefore, he requested by fax letter to appear by conference call or in the alternative a postponement of the hearing date. The NASD staff inquired of the Claimant's counsel whether a conference call would be acceptable for Mr. Simon's appearance at the hearing. Claimant's counsel agreed to Mr. Simon appearing by conference call.

When the hearing commenced at 10:30 A.M. Chicago time, the panel addressed the request for a postponement by Mr. Simon. Claimant's counsel indicated that they would not agree to a postponement, but would agree to Mr. Simon's request to appear by conference call. Thereafter, a conference call was initiated by Mr. Simon to the NASD offices. At that time, the arbitrators determined to proceed with the hearing. During cross-examination by Mr. Simon of Claimant's first witness, Mr. Simon terminated the conference call voluntarily and without reason.

After an executive session, the arbitrators determined that, pursuant to NASD Code of Arbitration Procedure Section 29, the hearing should proceed as scheduled and that any award rendered be binding on the Respondent Irving Simon.

AWARD

The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has decided in full final resolution of the issues submitted for determination as follows:

1. Sandhurst Securities, Inc. is in bankruptcy and therefore the Claimant is stayed from proceeding against the firm;
2. Irving Simon shall pay damages to Charlotte Papadakis in the amount of \$129,500.00 which amount includes interest, actual losses, unrealized losses, commissions and costs of collection;
3. Charlotte Papadakis' request for reasonable attorney's fees and punitive damages is denied;

4. Pursuant to Section 43(b) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain as forum fees, the \$500.00 filing fee previously deposited with the NASD by the Claimant Charlotte Papadakis.

BY THE PANEL

S/SRobert L. Agosto, Esq. _____
Presiding Chair

S/SPaul E. Susz, Esq. _____

S/SJerry W. Slansky _____