

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between :
Joseph A. Halizak : AWARD
Claimant :
vs. : #88-03242
Advest, Inc. :
Steven F. Tripodi :
Respondents :

Case Summary

Claimant Joseph A. Halizak who maintained a margin account with Respondent Advest, Inc. maintained that Respondents, without prior notification or authorization, seized and sold securities from his account to satisfy margin deficiencies in October 1987 and November 1987. Claimant asserted that these actions constituted breach of contract and violation of fiduciary obligations. Respondents maintained that under the terms of the Claimant's margin agreement, Respondent Advest, Inc. was not required to make any prior tender, demand or call of any kind before making a liquidation. Respondents also maintained that notwithstanding such provision, Respondent Steven F. Tripodi advised the Claimant by telephone that the securities would be liquidated if he did not deposit additional funds to restore the margin to an acceptable amount. Respondents also maintained that the Claimant advised Respondent Steven F. Tripodi that he was unwilling to make such a deposit.

Relief Requested

Claimants requested relief in excess of the amount of \$16,000.00 plus interest at 9 percent (%) and punitive damages in the amount of \$80,000.00. Respondents requested relief in the amount of \$614.65 as a counterclaim.

Award

On July 10, 1989, the undersigned arbitrators heard the controversy between the parties in Buffalo, New York as set forth in submissions to arbitration signed by Claimant Joseph A. Halizak on October 14, 1988, by Respondent Advest, Inc. on November 21, 1988, and by Respondent Steven J. Tripodi on November 21, 1988. The initial claim was filed on October 19, 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 for determination as follows:

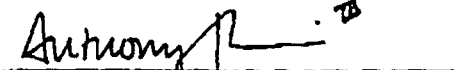
1. The claims of the Claimant against Respondent Steven F. Tripodi be and hereby are dismissed. Respondent Advest, Inc. is liable and shall pay to the Claimant the sum of Four

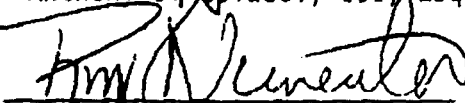
Thousand Four Hundred Fifty-Eight Dollars and Eight Cents(\$4,458.08).

2. Claimant Joseph A. Halizak shall be liable on the counterclaim of the Respondents and shall pay to the Respondents the sum of Seven Hundred Sixteen Dollars and Seven Cents(\$716.07).
3. The parties shall each bear their respective costs including attorney's fees.
4. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$500.00 filing fee previously deposited by the Claimant as costs of the two(2) hearing sessions conducted in this matter. All other forum fees are waived.

Concurring Arbitrators


Robert Gleichenhau, Esq.


Anthony J. Blucci, III, Esq.


Roy R. Neureuter