

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between)	
<u>Name of Claimant(s)</u>)	
Tennant Fund Managers Int Ltd)	
)	Case No. 90-00220
<u>Name of Respondent(s)</u>)	
Refco Securities, Inc.)	

Heard before the members of the Arbitration Panel:

Robert Herschmann, Esq.	Public
Marina Shank-Klein, P.A.	Public
Penny N. Miller	Industry

REPRESENTATION

Claimant, Tennant Fund Managers Int., Ltd. ("Tennant"), was represented by Jeffrey S. Rosen, Esq., of DeMartino Finkelstein Rosen Virga & Boraks.

Respondent, Refco Securities, Inc. ("Refco"), was represented by Walter C. Greenough, Esq., of Schiff Hardin & Waite.

CASE SUMMARY

This case was filed with the National Association of Securities Dealers, Inc. ("NASD") on January 17, 1990. The hearing was conducted in Fort Lauderdale, Florida on December 5 and 6, 1990, and June 18, 1991, with a total of four (4) sessions.

Claimant alleged that Respondent was liable for failure to execute Claimant's order to liquidate the options account in a timely manner.

Respondent alleged that: on October 6, 1987, when Claimant alleges it delivered a letter from James Tennant ordering liquidation, Respondent also received a letter from Alan Mackey instructing Respondent not to liquidate any positions; Alan Mackey had the same authority as James Tennant to give Respondent trading instructions; Respondent is willing to distribute the funds remaining in the account but Claimant refused to cooperate with Respondent in identifying those persons who are entitled to receive the proceeds from the fund; and that all investors in, or creditors of, Claimant are indispensable parties to this proceeding.

RELIEF REQUESTED

Claimant requested damages in the amount of \$121,000.00 or, in the alternative, \$89,845.89 plus attorney's fees and refund of their arbitration fees.

Respondent requested dismissal of the claim plus costs.

AWARD

On December 5 and 6, 1990, and June 18, 1991, the arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant on January 9, 1990, and by Respondent, on April 5, 1990. 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 parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award be entered. In either case, the parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASD.
2. Respondent, Refco, shall pay \$7,229.00 to Arthur Andersen & Co., for the preparation of the audit.
3. Respondent, Refco, is found liable and shall pay to Claimant the amount of \$89,845.89, plus interest at the rate of 5.5% per annum from October 9, 1987 to June 18, 1991, in the amount of \$18,236.25, less the amount paid to Arthur Andersen as specified in paragraph #2 above, for a total due the Claimant of \$100,853.14.
4. Claimant, Tennant, is hereby directed to disburse the funds received from Refco to the investors of Tennant Fund, who have executed the mutually agreed upon releases, in protection to each investor's investment interest in the fund as stated in the Kingston-Smith Certification.
5. Claimant's request for attorney's fees is denied.
6. Respondent's request for costs is denied.

FORUM FEES

1. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the has assessed forum fees in the amount of \$3,000.00, (4 sessions x \$750.00 per session). Claimant is hereby assessed \$1,500.00 for which the NASD shall retain the \$750.00, previously deposited in partial satisfaction thereof. Respondent is hereby assessed \$1,500.00 payable to the National Association of Securities Dealers, Inc.

The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding including attorney's fees.

Fees are payable to the National Association of Securities Dealers, Inc.

OTHER ISSUES

None.

Concurring Arbitrators' Signatures

/s/

Robert Herschmann, Esq.

/s/

Marina Shank-Klein

/s/

Penny N. Miller

Date of Decision August 27, 1991