

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between:

Name of Claimant(s)

Samuel Kleinman

Name of Respondent(s)

Shochet Securities, Inc.,
Marvin Shochet and Charles Light

CASE # 90-00515

Heard before the members of the Arbitration Panel:

Casey W. Mills, Esq.
George R. Canty, Jr.
S. Richard Savage

CASE SUMMARY

This claim was filed with the National Association of Securities, Inc. (NASD) on February 16, 1990. The hearing was conducted in Fort Lauderdale, Florida on November 9, 1990 and November 26, 1990, with a total of four (4) sessions.

Claimant, Samuel Kleinman ("Kleinman"), alleged that Respondents, Shochet Securities, Inc. ("SSI"), Marvin Shochet ("Shochet") and Charles Light ("Light"), were liable for: negligence; breach of fiduciary duty; violation of Section 517.301 of the Florida Statutes and Sections 10(b) and 12(2) of the Securities Exchange Act of 1934 and the Securities Act of 1933; and, as it relates to Respondents SSI and Shochet, negligent supervision. Claimant alleged that Respondents' failure to execute a sell order for certain stock in a timely manner caused him to suffer losses.

Respondents alleged that: Claimant is a sophisticated investor; was aware of the risks involved; did not place the order to liquidate the positions on the date he alleges; and otherwise denied liability. Respondent asserted the affirmative defenses of: falsity of the allegations; assumption of risk; lack of proximate cause; compliance with applicable rules regulations; full disclosure; compliance with Claimant's instructions; ratification; lack of scienter or recklessness; contributory negligence; lack of reliance; laches; failure, of the Claimant, to bring his claims for securities fraud and breach of fiduciary duty within the time prescribed by law; and waiver.

RELIEF REQUESTED

Claimant requested damages in the amount of \$58,000.00, plus interest, costs and attorney's fees.

Respondents requested dismissal of the claim, plus costs and attorney's fees.

AWARD

On November 9, 1990 and November 26, 1990, the arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant on January 6, 1990, and by Respondents, Shochet and Light on March 26, 1990 and by SSI on April 4, 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 may be entered. In either case, the parties have agreed to receive conformed copies of the Award while the original(s) remain on file with the NASD.
2. Respondent, Light, is found not liable and, therefore, all claims against him are hereby dismissed.
3. Respondent, SSI and Shochet, are found liable, jointly and severally, and shall pay to the Claimant the amount of Fifty Eight Thousand and 00/100 (\$58,000.00), plus interest at the rate of 6% per annum (from April 6, 1987 to November 8, 1990) in the amount of Twelve Thousand Four Hundred Ninety Three and 20/100 (\$12,493.20) Dollars for a total due to the Claimant of Seventy Thousand Four Hundred Ninety Three and 20/100 (\$70,493.20) Dollars.
4. Claimant's request for attorney's fees and costs are denied.

5. Pursuant to Section 43 of the Code of Arbitration Procedure, the Panel has assessed fees in the amount of Two Thousand and 00/100 (\$2,000.00) Dollars (4 sessions x \$500.00 per session). Claimant is hereby assessed One Thousand and 00/100 (\$1,000.00) Dollars for which the NASD shall retain the Five Hundred and 00/100 (\$500.00) Dollar filing fee previously deposited in partial satisfaction thereof. Respondents, SSI and Shochet, are hereby assessed One Thousand and 00/100 (\$1,000.00) Dollars, jointly and severally, payable to the National Association of Securities Dealers, Inc.

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

OTHER ISSUES

None.

ARBITRATORS CONCURRING

/S/
Casey W. Mills, Esq.

/S/
George R. Canty, Jr.

/S/
S. Richard Savage

Dated: November 30, 1990