

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Kenneth A. Kawaller

90-00533

Name of Respondent(s)

Thomas A. Tryhane

Heard before:

Name

Public/Industry

Martin Jay Siegel

Public Arbitrator

Edward T. Hill

Public Arbitrator

Cosimo Patti

Industry Arbitrator

CASE SUMMARY

Claimant, Kenneth Kawaller ("Claimant"), alleged that Respondent, Thomas A. Tryhane ("Respondent") made two unauthorized trades in his account; one, an unauthorized purchase of Restaurant Hotline Systems, Inc. and two, an unauthorized purchase of Keegan Management, Co. ("Keegan"). Claimant alleged that when he received the confirms for these trades, he contacted the Respondent but that the Respondent avoided his phone calls. Claimant alleged that when he learned of the unauthorized purchase of Keegan he told the Claimant to sell the keegan shares and that Respondent failed to execute that sell order.

Respondent maintained that Restaurant Hotline was not purchased by the Claimant and that he never entered a firm order to purchase Restaurant Hotline for Claimant but that J.T. Moran's back office wrongfully placed the order for Claimant. Respondent maintained that Claimant authorized the purchase of Keegan. Respondent maintained he attempted to return Claimant's phone calls.

RELIEF REQUESTED

Claimant, Kenneth Kawaller requested damages of \$13,094.00.

Respondent, Thomas Tryhane requested that Claimant's claim be dismissed.

AWARD

The Claimant statement of claim was filed February 20, 1990. On Monday, March 25, 1991, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by the Claimant, on February 14, 1990 and by Respondent, on April 9, 1990. The hearing was held in New York City and consisted of one (1) hearing session. 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. That Respondent is liable to the Claimant and shall pay the Claimant the sum of Eleven Thousand Ninety Four and 00/100 Dollars (\$11,094.00).
2. The parties shall each bear their respective costs, including attorneys' fees.
3. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain \$200.00 of the \$400.00 filing fee previously deposited by the Claimant and shall refund to the Claimant \$200.00.

CONCURRING ARBITRATORS

_____/s/_____
Martin Jay Siegel, Esq.

_____/s/_____
Cosimo J. Patti

_____/s/_____
Edward T. Hill

Date of Decision: March 26, 1991