

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Fred M. Hall

Claimant

vs.

90-00851

Ray Johnston; Capital First Securities,
Inc.; Dillon Securities, Inc. and Cooper-
Daher Securities, Inc.

Respondents

REPRESENTATION OF PARTIES

Fred M. Hall was represented by Ramsay Slugg, Esq., Gandy, Michener, Swindle, Whitaker & Pratt of Fort Worth, Texas.

Respondents did not appear.

CASE SUMMARY

In a Statement of Claim filed with the National Association of Securities Dealers, Inc. ("NASD") on or about March 21, 1990, Fred M. Hall ("Claimant") alleged that Ray Johnston ("Johnston") made misrepresentations in connection with the purchase of BC Communications stock. Claimant also alleged that Johnston made an unauthorized purchase of additional shares of BC Communications. Claimant further alleged that Johnston was employed as a registered representative with Capital First Securities, Inc., Dillon Securities, Inc. and Cooper-Daher Securities, Inc. respectively.

In its Answer filed with the NASD on or about May 2, 1990, Respondent Dillon Securities, Inc. stated that Johnston was never registered as a broker with it and that it had not transacted any business with or on behalf of Claimant.

Respondents Ray Johnston, Capital First Securities, Inc. and Cooper-Daher Securities, Inc. did not file responsive pleadings.

RELIEF REQUESTED

Claimant requested specific performance of immediate delivery of a stock certificate representing 150,000 shares of Common stock of Kinetic Energy and a certified check in the amount of \$13,350.00 or in the alternative specific performance of the immediate delivery of the stock certificate representing 150,000 shares of Common stock of BC Communications and monetary damages representing the difference between \$16,350.00 and the current fair market value of BC Communications; treble damages; interest; attorneys fees; and costs.

Respondent Dillon Securities, Inc. requested that the claims against it be dismissed.

OTHER ISSUES

Respondent Dillon Securities, Inc. was voluntarily dismissed as a Respondent in this matter by the Claimant.

Respondents Ray Johnston and Cooper-Daher Securities, Inc. were served with the Statement of Claim. Respondent Capital First Securities, Inc. was not served with the Statement of Claim. All parties were sent notification of the hearing pursuant to Sections 25(c) (1) and 6 of the NASD Code of Arbitration Procedure.

PROCEDURAL MATTERS

On Wednesday, May 29, 1991 in Dallas, Texas during a hearing lasting a total of one (1) session, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on March 16, 1990 by Claimant Fred M. Hall, on May 1, 1990 by Troy Moe on behalf of Respondent Dillon Securities, Inc.

Respondents Ray Johnston and Cooper-Daher Securities, Inc. did not file with the NASD a properly executed submission to arbitration, but are required to submit to arbitration pursuant to Section 12 of the NASD Code of Arbitration Procedure and are bound by the determination of the arbitration panel on all issues submitted.

The claimant has 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.

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AWARD

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

1. Respondents Ray Johnston and Cooper-Daher Securities, Inc. shall be and hereby are jointly and severally liable for and shall pay to the Claimant the sum of Six Thousand Eight Hundred Forty Dollars (\$6,840.00) as compensatory damages;
2. Respondents Ray Johnston and Cooper-Daher Securities, Inc. shall be and hereby are jointly and severally liable for and shall pay to the Claimant the sum of Twenty Thousand Dollars (\$20,000.00) as punitive damages. The panel considered the common law of the State of Texas in awarding punitive damages.
3. Interest at the rate of 10% per annum is awarded on the above stated sums from and inclusive of May 29, 1991 to and inclusive of the date this award is paid in full;
4. Each party shall bear its own costs of and expenses not specifically enumerated herein; and
5. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the hearing session deposit in the amount of \$250.00 previously deposited with the NASD by the Claimant Fred M. Hall. The NASD shall retain \$250.00 of the postponement fee previously deposited with the NASD by the Claimant as forum fees and refund the balance of \$150.00. Respondents Ray Johnston and Cooper-Daher Securities, Inc. shall be and hereby are jointly and severally liable for and shall pay to the Claimant the sum of \$650.00 as reimbursement of costs.

Dated:

May 29, 1991

S/S Fred S. Harless, Esq.
Presiding Chair
Public Arbitrator

May 29, 1991

S/S Walter S. Henrion
Public Arbitrator

May 29, 1991

S/S Frank B. Merchant
Industry Arbitrator