

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between)

Name of Claimant(s))

Ilva Osorio & Ilva Campagna)

Case No. 90-01069

Name of Respondent(s))

Bill Richardson)

Greg Hawke)

Mike Molyneux)

Dave Holland)

REPRESENTATION

For Claimants, Ilva Osorio ("Osorio") and Ilva Campagna ("Campagna"): Andrew C. Barnard, Esq. of Andrew C. Barnard, P.A.

For Respondents, Bill Richardson ("Richardson"), Greg Hawke ("Hawke"), and Dave Holland ("Holland"): Theodore Brin, Esq. For Respondent, Mike Molyneux ("Molyneux"): pro se.

CASE INFORMATION

Statement of Claim filed on: April 12, 1990. Claimant, Osorio's, Submission Agreement signed on: June 8, 1990 and Claimant, Campagna's, Submission Agreement signed on: September 17, 1990.

Respondents' Statement of Answer filed on: February 2, 1991. Respondents' Submission Agreements signed by Richardson on July 9, 1990; by Hawke on July 9, 1990; by Molyneux on July 9, 1990; and, by Holland on July 17, 1990.

HEARING INFORMATION

On November 18, 19 and 21, 1991, in Fort Lauderdale, Florida, hearings lasting six (6) sessions were conducted.

CASE SUMMARY

Claimants alleged that Respondents failed to act on Claimants' instructions by failing to introduce the orders to sell OEX puts or to timely execute the orders, causing a loss to Claimants.

Respondents denied all allegations of wrongdoing and alleged that the Respondents' responsibility extended only to the time the orders were transmitted to First Options Corp; that losses were due to Italo Campagna's negligence; there was a "fast market" on the day in question; Respondents handled the orders as promptly as possible; and, Claimants' decision to ignore the advice to place a market order, together with their decision to place a limit order during a fast market, were the direct and proximate cause of any loss from the second order.

RELIEF REQUESTED

Claimants requested damages in the amount of \$47,577.74 plus interest at the legal rate from October 16, 1989 through November 19, 1991, attorney's fees and costs.

Respondents requested dismissal, attorney's fees and costs.

OTHER ISSUES CONSIDERED & DECIDED

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 originals remain on file with the NASD.
2. After due notice, as reflected in the NASD file in this matter, Respondent, Molyneux, failed to appear at the hearing or present any testimony or defenses. Pursuant to Section 29 of the Code, the Panel proceeded as if Molyneux had appeared at the hearing.
3. On October 15, 1991, this Panel denied Claimants' Motion to Amend Claim to add First Options as a party, and ruled that Claimants were free to name First Options in a separate claim.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents, Richardson, Hawke, Molyneux and Holland, are found not liable and, therefore, all claims against them are hereby dismissed. The Panel finds that there may have been negligence in the handling of the two sell orders in Claimants' account. However, any such negligence was not attributable to the named Respondents.
2. Claimants' request for attorney's fees is denied.
3. Respondents' request for attorney's fees is denied.

OTHER COSTS

The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount of \$3,000.00 (six sessions x \$500.00). Claimants are hereby assessed \$1,500.00 for which the NASD shall retain the \$500.00 previously deposited in partial satisfaction thereof. Respondents, Richardson, Hawke, Molyneux and Holland, are each hereby assessed \$375.00, payable to the National Association of Securities Dealers, Inc.

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

Concurring Arbitrators' Signatures

Name

Public/Industry

/s/
Robert Herschmann, Esq.

Public

/s/
Michael Lau

Public

/s/
Leon J. Steiner

Industry

Date of Decision: November 27, 1991