

## NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

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: In the Matter of the Arbitration Between :  
: :  
: Gopesh K. Sharma :  
: Claimant : CASE# 90-01179  
: vs. :  
: :  
: Trust Bank Securities Brokerage, Inc. :  
: Richard W. Mussmon :  
: Respondents :  
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Heard before:

Perry E. Wallace, Jr., Esq. Public Arbitrator  
Marshall Passman Public Arbitrator  
K. Douglas Potter Industry Arbitrator

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on April 24, 1990 Claimant Gopesh K. Sharma alleged the Respondents placed his funds in an investment that was not suitable for him in view of his stated goal of preserving his investments; failed to adequately inform him of the risks involved in his investment or that the purchase was on margin; failed to give him full information regarding his investment; failed to follow his instructions and breached the fiduciary duty owed to the Claimant. Respondents maintained the Claimant is a well-educated, sophisticated and successful businessman who sought to achieve large profits in a short period of time. Respondents further maintained the investment was suitable given Claimant's income, trading goals and investment experience and the Claimant understood the risks involved in the trading strategy employed and authorized the investment in his account and did not object to the trade after receiving a written confirmation reflecting the details of the trade. Respondents further maintained they are not responsible for the consequences of a unanticipated market collapse and that punitive damages in this case are totally inappropriate.

RELIEF REQUESTED

Claimant requested damages of approximately \$55,000.00, plus interest from the date of the activity complained of to the time of payment of the award, costs, National Association Securities Dealers, Inc. fees and attorneys' fees incurred by Claimant in order to prosecute this action; that opportunity loss of use of investment funds damages of \$10,000.00 be awarded against

Respondents; punitive damages of \$110,000.00 and such other and further relief to which Claimant may be justly entitled to. Respondents requested dismissal of all claims against them, plus an award of costs and attorneys' fees incurred in defending this action.

#### AWARD

On January 23 and February 20, 1991 the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant Gopesh K. Sharma on April 11, 1990 and by Respondents Trust Bank Securities Brokerage, Inc. and Richard W. Mussmon on May 22, 1990. The hearing was conducted at the offices of the National Association of Securities Dealers, Inc. located in Washington, DC and consisted of four (4) hearing sessions. 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:

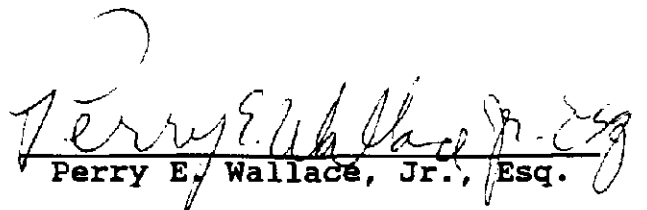
1. The claims by the Claimant against all Respondents be and hereby are dismissed in all respects.
2. The parties shall each bear their respective costs, including attorneys' fees.

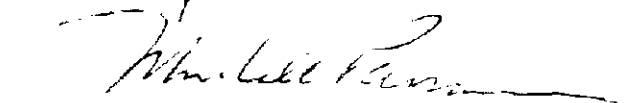
#### FORUM FEES

Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$750.00 filing fee previously deposited by the Claimant. In addition, the Claimant Gopesh K. Sharma be and hereby is liable and shall pay to the National Association of Securities Dealers,

Inc. the sum of Two Thousand Four Hundred Fifty Dollars and No Cents (\$2,450.00) to represent forum fees.

ARBITRATORS SIGNATURES

  
Perry E. Wallace, Jr., Esq.

  
Marshall Passman

  
K. Douglas Potter

Date of Decision: April 1, 1991