

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between :
Frederick W. Stiefel :
Claimant :
vs. :
Financial Clearing & Services Corp. :
Ray Minicucci :
Respondent :

CASE #90-02247
AWARD

CASE SUMMARY

Frederick W. Stiefel, Pro Se, in a claim filed with the National Association of Securities Dealers, Inc. on August 15, 1990, alleged that Respondent Ray Minicucci failed to cancel a purchase of 2,500 shares of American Network stock purchased in error. A subsequent sale of the unauthorized 2,500 shares plus 5,000 original shares, resulted in a debit balance in Claimant's account.

Respondent, Financial Clearing & Services Corp. by its attorney Michael G. Schwartz, Wexler & Burkhart, Garden City, NY maintained that at no time did Claimant deal directly with FICS with regard to entering any orders to purchase or sell securities. FICS, as "clearing broker", was not in any way a guarantor of the introducing firms obligations or responsibility. The introducing firm was J.T. Moran. FICS asserts a counterclaim and, in the alternative, a cross-claim against Ray Minicucci.

Respondent Ray Minicucci represented by Steven Caruso, Caruso & Caruso, Brooklyn, NY, maintained that at all times his conduct was proper and in accordance with the rules and regulations of the securities industry and states that Claimant solicited and authorized the purchase order of 2,500 shares of American Network Group, Inc. but subsequently changed his mind and requested that he cancel the same. Mr. Minicucci continues that he complied and submitted the necessary documentation to have the purchase order cancelled. Because of the cessation of operations of J.T. Moran & Co., Respondent affirms that he was never able to ascertain the reasons for the issuance of the revised Purchase Confirmation or provide further assistance to Claimant.

Mr. Minicucci replies to the Cross Claim of Respondent, Financial Clearing & Services Corp. that he cannot be held responsible for Claimant's debit balance in view of the fact that he did not enter the Purchase Order for January 15, 1990 nor can he be held responsible for the acts of commission or omission of either J.T. Moran & Co., Inc. or Financial Clearing & Services Corp.

~~Claimant~~ replies to the Counterclaim that ~~Financial Clearing & Services Corp.~~ was notified of the error in question as evidenced by a receipt that they signed on 2/8/90, but that they still executed a sale of all the American Network stock in his account to clear the debit balance on March 1, 1990, not a sale of only the 2,500 shares in error.

RELIEF REQUESTED

Claimant requests restoration of his account to its original state before the unauthorized purchase plus reimbursement of the NASD filing fee and expenses for a total of Four Thousand Nine Hundred Forty-Four Dollars and Seventy-Five Cents (\$4,944.75) in damages and/or reinstatement of 5,000 shares of American Network stock to his account.

Financial Clearing & Services Corp. issues a counterclaim against the Claimant and, in the alternative, a cross-claim against Ray Minicucci.

Ray Minicucci requests a decision that he cannot be held responsible for the losses sustained.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Robert W. Cockren, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on August 10, 1990 and by the Respondent Financial Clearing & Services Corp. on December 10, 1990 and by Ray Minicucci on February 3, 1991.

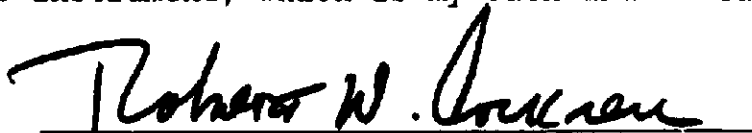
And, that the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. That the Claim of Frederick W. Stiefel against Financial Clearing & Services Corporation be, and hereby is, dismissed.

2. That the Counterclaim of Financial Clearing & Service Corporation against Frederick W. Stiefel be, and hereby is, dismissed.
3. That the Cross-claim of Financial Clearing & Services Corporation against Ray Minicucci be, and hereby is, dismissed.
4. ~~That the Respondent, Ray Minicucci, is liable and shall pay to the Claimant, Frederick W. Stiefel, the sum of One Thousand One Hundred Ninety-Nine Dollars and Ninety-One Cents (\$1,199.91).~~
5. The One Hundred Twenty-Five Dollars and No Cents (\$125.00) filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc. and is assessed against Respondent Financial Clearing & Services Corporation who shall pay One Hundred Twenty-Five Dollars and No Cents (\$125.00) to Claimant, Frederick W. Stiefel.

AFFIRMATION

I, ROBERT W. COCKREN, ESQ., do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.


Signature of Arbitrator

DATED: *September 3, 1991*