

N.A.S.D. BOARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Bateman Eichler, Hill Richards, Inc.

NASD Arbitration
No. 90-02469

vs

Nick Bina

REPRESENTATION

For Claimant: Thomas M. Adams, Esq. - Lanning, Adams & Levi

For Respondent: Jerry Kaplan, Esq. - Kaplan, Kanegoe & Kadin

CASE INFORMATION

Statement of Claim filed: September 6, 1990

Claimant's Submission Agreement signed on: August 22, 1990

Statement of Answer filed by Respondent on: August 1, 1991

Respondent, Submission Agreement signed on: July 29, 1991

HEARING INFORMATION

Pre-Hearing Conferences : None

Hearing Date/Sessions: March 19, 1992 - Two Sessions

Hearing Location: Los Angeles, California

CASE SUMMARY

Claimant, Bateman Eichler, Hill Richards, Inc. (BEHR) alleged that on July 7, 1988, Respondent Nick Bina (Bina), deposited a check for \$7,100.00 into his commodities account at BEHR. This check was returned insufficient funds on July 11, 1988. This, combined with trading losses, left the account with an unsecured debit balance of \$8,649.85. Demand was made for said sum but said sum remains unpaid.

By way of answer and counterclaim, Bina alleged that a BEHR employee, Hassan Moa Moghadam (Moghadam) asked Bina to open an account with BEHR after assuring Bina that the account was to demonstrate to Moghadam's employer that he could bring in new business. Subsequently, it is alleged, Moghadam informed Bina that he had made unauthorized trades in the account and that he would need additional funds to cover losses incurred. Bina gave two checks to BEHR in the amount of \$5,000.00 and \$7,100.00. In turn, Moghadam gave Bina his own check for \$6,000.00, which was returned due to insufficient funds. Bina stopped payment on the \$7,100.00 check he had give to BEHR.

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Cross-Respondent-Claimant, BEHR, alleged that Bina entered into a scheme to misrepresent the nature of his deposit and intentions to BEHR for the purpose of helping his friend. If, as alleged, Bina learned that Moghadam had made unauthorized trades in his account and then continued to conspire with his friend to deceive BEHR, he should bear any losses resulting from his scheme.

RELIEF REQUESTED

Claimant requested: Damages in the amount of \$8,649.85 interest at the legal rate from the date the debit balance was first incurred and fees as specified in the arbitration agreement.

Respondent requested: Reimbursement of his initial investment of \$5,000.00 and additional money given to BEHR of \$5,000.00, interest, costs and reimbursement of legal fees pursuant to contract.

OTHER ISSUES CONSIDERED AND DECIDED

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 original(s) remain on file with the NASD.

AWARD

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

1. Each and every claim of Claimant, Bateman Eichler, Hill Richards, Inc. against Respondent, Nick Bina, is dismissed.
2. Cross-respondent, Bateman Eichler, Hill Richards, Inc. is liable and shall pay to Cross-claimant, Nick Bina, the sum of Five Thousand Dollars and No Cents (\$5,000.00) plus prejudgment interest from July 7, 1988 at the legal rate.
3. The parties shall each bear their respective costs and fees, including attorneys' fees.
4. Claimant, Bateman Eichler, Hill Richards, Inc. shall reimburse Respondent Nick Bina \$275.00 in filing fees.
5. No additional forum fees are assessed.

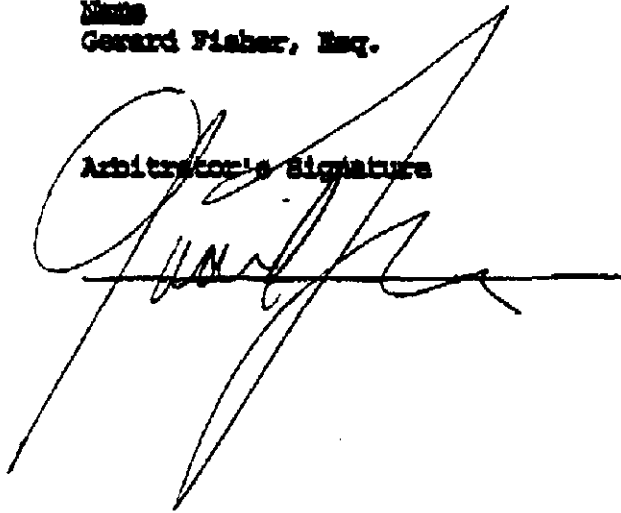
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~~Name~~
Gerard Fisher, Esq.

Public/Industry
Public Chairperson

Arbitrator's Signature



DATE SERVED: 04/10/92

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