

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between)

Name of Claimant(s)

Kamel Acoudad

Case No. 90-02501

Name of Respondent(s)

Dominick & Dominick Incorporated  
LIT America, Inc.

Heard before the arbitrator:

Patricia A. Shub, Esq.

Public

REPRESENTATION

Claimant, Kamel Acoudad ("Acoudad"), was represented by Stephen Sussman, Esq. of the Law Offices of Stephen Sussman.

Respondent, Dominick and Dominick, Inc. ("Dominick"), was represented by Richard Warren of Fleming, Haile & Shaw, P. A.

Respondent, Third Party LIT America, Inc. ("LIT"), was represented by Vickie Lambert of LIT America, Inc.

CASE SUMMARY

This matter was initiated by a Statement of Claim filed with the National Association of Securities Dealers, Inc. ("NASD"), on September 7, 1990. Claimant alleged that Respondent was liable for failure to execute an order to purchase certain options.

Respondent, Dominick, filed its Statement of Answer on February 4, 1991. and denied all allegations of wrongdoing.

Respondent also filed a Third Party Claim and alleged that Third Party Respondent, LIT, was responsible for conducting the trade and, therefore, Dominick should receive a judgment against LIT for any damages adjudged against Dominick.

Third Party Respondent, LIT, filed a Statement of Answer with the NASD on August 7, 1991, and denied all allegations of wrongdoing. Third Party

Respondent alleged: that there was only one order filled at the Claimant's price during the time period in question; there is no basis in fact to establish that the failure to fill Claimant's order was caused by any wrongdoing on LIT's part; LIT complied with all applicable procedures and cannot be held liable for market conditions.

LIT asserted affirmative defenses including: failure to establish a causal connection between losses incurred by Claimant and the acts of LIT; compliance with all applicable rules and regulations; compliance with normal custom in the trade; and failure to state a cause of action.

#### RELIEF REQUESTED

Claimant requested damages in the amount of \$1,790.00.

Respondent, Dominick, requested dismissal of the claim and filed a Third Party Claim for indemnification.

Third Party Respondent, LIT requested dismissal of the Third Party Claim.

#### AWARD

On August 8, 1991, in Fort Lauderdale, Florida, during a hearing lasting one (1) session, the undersigned arbitrator heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant, Acuidad on July 25, 1990, and signed on January 9, 1991, by Robert C. Harrison on behalf of Respondent, Dominick, and not signed by LIT as required by Sections 12 and 25 of the Code, Respondent, LIT, being a Member Firm of the NASD, Inc.

After considering the pleadings, the testimony and the evidence presented at the hearing, and Respondent, LIT, neither appearing at the hearing nor requesting an adjournment thereof, notwithstanding its knowledge of this arbitration as evidenced in the record of proceedings and Arbitrator's Exhibit #2, this arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent, Dominick, is found liable, and shall pay to the Claimant the amount of \$1,790.00, plus interest at the legal rate of 12% per annum from January 23, 1990 to August 8, 1991 in the amount of \$330.73 for a total due to the Claimant of \$2,120.73.

2. Third Party Respondent, LIT, is found liable and shall pay to the Third Party Claimant, Dominick, the amount of \$1,790.00 plus interest at the legal rate of 12% per annum from January 23, 1990 to August 8, 1991 in the amount of \$330.73, for a total due to the Third Party Claimant of \$2,120.73.

#### FORUM FEES

1. Pursuant to Section 25 of the Code of Arbitration Rules, the Arbitrator has assessed forum fees in the amount of \$300.00 (one session x \$300.00 per session). Third Party Respondent, LIT, is hereby assessed \$300.00 of which \$50.00 shall be paid directly to the Claimant, and \$75.00

shall be paid to Respondent, Dominick, and \$175.00 shall be paid to the National Association of Securities Dealers, Inc. Additionally, Respondent, LIT, shall refund to the Claimant the \$25.00 non-refundable filing fee deposited by Claimant and shall refund to Respondent, Dominick, the \$500.00 non-refundable filing fee deposited by Respondent. The NASD shall retain the fees previously deposited by the parties in partial satisfaction of the forum fees.


2. The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding including attorney's fees.

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

OTHER ISSUES

None.

Arbitrator's Signature

  
Patricia A. Shub, Esq.

Date of Decision: 7/12/10