

Arbitration

National Association of
Securities Dealers, Inc.
One East Broward Boulevard
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Ft. Lauderdale, Florida 33301
(305) 522-7391

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Dominick & Dominick Incorporated

90-03208

Name of Respondent(s)

Benjamin Patipa, MD

REPRESENTATION

For Claimant, Dominick & Dominick Incorporated ("Dominick"): Susan Yoffee, Esq. of Fleming, Haile & Shaw.

Respondent, Benjamin Patipa ("Patipa") was Pro Se.

CASE INFORMATION

Statement of Claim filed: November 13, 1990. Claimant's Submission Agreement signed by Benedict Albano on behalf of Dominick on October 12, 1990.

Statement of Answer filed: April 18, 1991. Respondent's Submission Agreement signed by Patipa on April 12, 1991.

HEARING INFORMATION

On June 4, 1992, in Fort Lauderdale, Florida, a hearing lasting 1 session was conducted.

CASE SUMMARY

Claimant alleged that Respondent was liable for monies owed due to his failure to reimburse Dominick for brokerage services performed pursuant to Respondent's purchase of certain options. Claimant alleged Patipa was liable for open account, account stated, breach of written agreement, and quantum meruit.

Respondent denied all allegations of wrongdoing and alleged that Claimant's Statement of Claim does not state a complete basis for recovery and does not contain the necessary elements as required by law. Patipa alleged that the trade was unauthorized and he timely objected to the trade.

RELIEF REQUESTED

Claimant requested damages in the amount of \$5,336.43 plus interest, attorney's fees and costs.

Respondent requested dismissal of the claim.

OTHER ISSUES CONSIDERED & DECIDED

1. Respondent withdrew his Motion to Dismiss at the time of the hearing and stated that he was prepared to defend the case on the merits.

WARD

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

1. Respondent, Patipa, is found liable for breach of written agreement and shall pay to the Claimant the amount of \$5,336.43.
2. Claimant's request for interest is denied.
3. This arbitrator finds that Claimant's request for attorney's fees is a matter reserved for determination by the Circuit Court, should the Claimant choose to present same.

OTHER COSTS

1. Respondent is also found liable and shall pay to Claimant the further amount of \$351.60 for telephone, facsimile transmission charges, Federal Express, postage costs, process server costs and photocopies.
2. The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding.

FORUM FEES

1. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Arbitrator has assessed forum fees in the amount of \$300.00 (1 session x 300). Respondent, Patipa, is hereby assessed \$300.00, \$75.00 of which shall be paid directly to the Claimant, and \$225.00 of which shall be paid to the National Association of Securities Dealers, Inc. Additionally, Respondent, Patipa, is hereby assessed the \$500.00 non-refundable filing fee to be paid to Claimant. The NASD, Inc. shall retain the \$75.00 hearing session deposit and the \$500.00 filing fee previously deposited by Claimant in partial satisfaction of such fees.

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

Arbitrator's Signature

Name

Public/Industry


Ronald Thomas Spann, Esq.

Public

Date of Decision:

6/12/92