



N.A.S.D. AWARD

Arbitration

NATIONAL ASSOCIATION OF SECURITIES DEALERS

National Association of
Securities Dealers, Inc.
NASD Financial Center
33 Whitehall Street
New York, New York 10004

In the Matter of the Arbitration Between

Name of Claimant

Alan R. Phillipson

vs.

90-03513

Name of Respondent

Financial Clearing & Services Corp.

REPRESENTATION

For Claimant: Joel S. Forman, Esq. of Bondy & Schloss.

For Respondent: David A. Goldman, Esq. of Wexler & Burkhart, P.C.

CASE INFORMATION

Statement of Claim filed: December 13, 1990.

Claimant's Submission Agreement signed on: December 10, 1990.

Statement of Answer filed on: February 25, 1991.

Respondent's Submission Agreement signed on: February 19, 1991.

HEARING INFORMATION

Hearing Date: September 12, 1991.

Hearing Sessions: Two Sessions.

Hearing Location: New York, New York.

CASE SUMMARY

Claimant, Alan R. Phillipson, asserts that Respondent, Financial Clearing & Services Corporation, liquidated some of the positions in Claimant's account without authorization.

Respondent contends that Claimant was advised, and in any event knew or should have known, that his broker, J. T. Moran, went out of business. Respondent further contends that Claimant was advised by letter dated January 19, 1990, to pay the margin due on his account or to transfer it via a valid

ACAT, by February 05, 1990. Respondent contends it sold some of the positions in Claimant's account on February 09, 1990, because neither of the above actions had properly been taken.

Claimant also contends that he was entitled to receive a stock dividend, but it was conceded at the hearing that he did receive it.

RELIEF REQUESTED

Claimant requests that the Panel award him \$32,000.00 in losses sustained from the unauthorized sales, \$100,000.00 in punitive damages, \$15,500.00 in attorney's fees, interest and costs.

Respondent requests that the Panel dismiss the claim in its entirety.

AWARD

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:

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award be entered. In either case, the parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASD.

1. The Panel finds that the Claimant failed to prove his claims. Thus all claims asserted by the Claimant against the Respondent are denied in their entirety.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed:

1. The NASD has received and shall retain the \$200.00 non-refundable filing fee paid by the Claimant and this amount shall be applied to any amount assessed;

2. The NASD has received and shall retain the \$750.00 hearing session deposit paid by the Claimant and this amount shall be applied to any amount assessed;

3. Claimant is assessed \$200.00 non-refundable filing fee;

4. Claimant is assessed \$1,500.00 for two (2) hearing sessions at \$750.00 per session. This amount shall be reduced by the \$750.00 hearing

Page 3
90-03513.Award

session deposit previously made. Therefore, the balance due the NASD is \$750.00.

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

ARBITRATION PANEL

Martin Fogelman, Esq.
Sidney Horowitz
Kevin M. Kelly

Public/Chairperson
Public
Industry

Concurring Arbitrators' Signatures


Martin Fogelman, Esq.

Date of Decision: 9/12/91

DATED BY NASD
SEPTEMBER 20, 1991

Page 3
90-03513.Award

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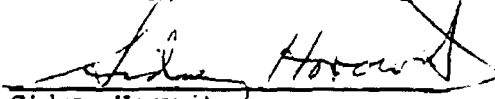
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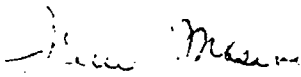
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Sidney Horowitz

DATED BY NASD

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Page 3
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