

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Mark A. Strutner

Claimant

vs.

Jonathan Alan and Company, Inc.
Alex Brown and Sons, Inc.

Respondents

Case #91-00311
AWARD

CASE SUMMARY

Pro Se Claimant, Mark A. Strutner, in a claim filed with the National Association of Securities Dealers, Inc. on January 30, 1991, alleged that Respondent Jonathan Alan and Company, Inc. failed to transfer his IRA account in a timely manner. He continues that Respondent, Alex Brown and Sons, Inc. sold out his purchase of PICTURETEL Warrants because the transfer had not been made. In order to re-purchase the Warrants, Claimant paid a higher price than originally paid and feels it should not have taken eight weeks for his account to be transferred.

Respondent, Alex Brown and Sons, Inc. by its counsel, Daniel E. Mc Intyre, Baltimore, MD, maintained that if any delay caused Claimant a loss, it was Mr. Strutner's previous clearing broker who caused the delay. They continue that it was not reasonable for Claimant to place purchase orders in a new, unfunded brokerage account, that Claimant has filed a speculative claim, failed to mitigate his damages and that Alex Brown fully discharged its responsibilities to Claimant's account.

Respondent, Jonathan Alan and Company, Inc., represented by John E. Lawlor, Esq., Garden City, NY, maintained that Alex Brown and Sons, Inc. were responsible for making a timely transfer and that any delay is chargeable to Alex Brown and Sons, Inc. as the signed ACAT was submitted to Alex Brown and Sons, Inc. in a timely fashion by Jonathan Alan and Company, Inc.

RELIEF REQUESTED

Claimant requests damages for Four Thousand (4000) PICTURETEL Warrants.

Respondent Jonathan Alan and Company, Inc. requests indemnification against Alex Brown and Sons, Inc.

Respondent Alex Brown and Sons, Inc. requests dismissal of the Claim.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Edward Gartenberg, 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 January 25, 1991 and by the Respondents on March 18, 1991 and April 15, 1991, respectively;

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 Respondent Jonathan Alan and Company, Inc. is liable and shall pay to the Claimant Mark A. Strutner, the sum of One Thousand Seven Hundred Fifty Dollars and No Cents (\$1750.00).
2. That Respondent Alex Brown and Sons, Inc. is liable and shall pay to the Claimant, Mark A. Strutner, the sum of One Thousand Seven Hundred Fifty Dollars and No Cents (\$1750.00).
3. The One Hundred and Fifty Dollar (\$150.00) 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 jointly and severally against the Respondents, Jonathan Alan & Company, Inc. and Alex Brown and Sons, Inc. and paid to Claimant.
4. This Award shall be without prejudice to any third party claims and/or respondents.

AFFIRMATION

I, EDWARD GARTENBERG, 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: June 26, 1991