

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

PaineWebber, Inc.

91-00441

Name of Respondent

Bud Kozak AKA Burton Kozak

REPRESENTATION

Claimant was represented by William McC. Montgomery of PaineWebber, Inc., Los Angeles, California.

Respondent Bud Kozak appeared at the hearing via telephone.

CASE INFORMATION

Statement of Claim filed on or about January 30, 1991. Claimant's Submission Agreement signed on or about January 29, 1991.

Respondent Bud Kozak has failed to file a Submission to Arbitration, and also failed to file an Answer to the Statement of Claim.

HEARING INFORMATION

The hearing was held on Tuesday, October 1, 1992 in Chicago, Illinois lasting one (1) session.

CASE SUMMARY

Claimant PaineWebber, Inc. ("Claimant") alleged a failure to pay for purchases made of shares of American Cyanamid Co. by Respondent Bud Kozak (a/k/a Burton Kozak) for his account with Claimant. The purchases occurred on September 14, 1990, and September 17, 1990, for a total cost of \$1,034,750.00. Claimant alleged that payment had not been received by September 17, 1990.

As a result of the alleged failure to pay, Claimant stated that the account was sold out for net proceeds of \$963,046.51. Claimant further stated it had realized a loss of \$71,707.00. Claimant went on to state that the accumulated margin interest charged has increased the amount due to \$72,741.85. Finally, Claimant alleged that despite due demand, Kozak has failed to pay to the Claimant the amount of \$72,741.85 which is presently due and owing.

RELIEF REQUESTED

Claimant requested entry of an Award, in its favor, against Kozak, in the amount of \$72,741.85 together with interest from September 21, 1990 and costs including attorney's fees.

OTHER ISSUES CONSIDERED & DECIDED

Upon review of the file and the representations made by/on behalf of the Claimant, the panel has determined that Respondent Kozak has been properly served with the Statement of claim pursuant to Sections 13 and 25 of the Code of Arbitration Procedure ("the "Code"). The panel also determined that Respondent Kozak had received due notice of the hearing as required under Section 26 of the Code, and that the arbitration of the matter would proceed pursuant to Section 29 of the Code.

Respondent Bud Kozak did not file with the NASD a properly executed submission to arbitration but having executed a written account agreement to arbitrate any dispute arising out of the relationship of the parties, is required to submit to arbitration and therefore is bound by the determination of the arbitration panel on all issues submitted.

Subsequent to the commencement of the hearing of this matter, Respondent Burton Kozak AKA Bud Kozak telephoned the hearing location. After an executive session the panel determined that Mr. Kozak could not present any defense pursuant to Section 25 of the NASD Code of Arbitration Procedure but was allowed to cross-examine witnesses presented by Claimant.

On January 7, 1992, Claimant made a Motion to Change the Situs of the case from Chicago to Los Angeles. Notice of the Motion requesting a response had been sent to Kozak. Kozak failed to respond to the Motion within the time allotted, and the Motion was forwarded to the panel. Upon review of the Motion, the Panel requested that the NASD and Claimant attempt to locate Kozak and serve him with the Statement of Claim. The undersigned arbitrators set April of 1992, as the date to show service attempts. After receipt of copies of the service attempts by Claimant and the NASD, the panel ruled on May 12, 1992, to deny Claimants Motion, and also ruled to allow Claimant's counsel to attend the hearing and allow Claimant's witnesses to testify by telephone.

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 originals remain on file with the NASD.

AWARD

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

1. Respondent Burton Kozak AKA Bud Kozak shall be and hereby is liable for and shall pay to the Claimant PaineWebber, Inc. the sum of \$72,741.85 (Seventy two thousand seven hundred forty one dollars and eighty five cents).
2. Interest at the rate of 5% per annum is awarded on the above stated sum from and inclusive of September 26, 1990 to and inclusive of the date this award is paid in full.
3. Respondent Burton Kozak AKA Bud Kozak shall be and hereby is liable for and shall pay to the Claimant PaineWebber, Inc. the sum of \$2,000.00 as attorneys fees and \$819.00 as expenses incurred in this matter pursuant to the terms of the agreement between the parties.

FORUM FEES

Pursuant to Section 43(c) of the NASD Code of Arbitration Procedure, the following forum fees are assessed:

1 hearing session X \$600.00 = \$600.00

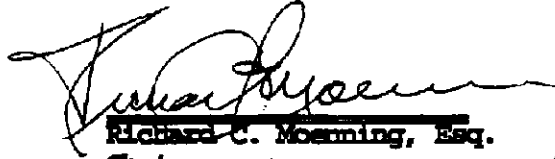
Pursuant to Section 43(c) of the Code of Arbitration, the NASD shall retain the nonrefundable filing fee in the amount of \$500.00, and shall retain the hearing session deposit in the amount of \$600.00 previously paid to the NASD by the Claimant. Respondent shall pay to the Claimant the sum of \$1,100.00 as reimbursement for the filing fee and hearing session deposit.

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

CONCURRING ARBITRATORS

Dated:

10-1-92


Richard C. Moering, Esq.
Chairperson
Public Arbitrator

10/1/92


Ralph Pierce
Industry Arbitrator

10-1-92


Harry A. Baldwin
Public Arbitrator

NASD Award served on:

10.1.92