

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between :
: Ghaus M. Malik :
: Claimant : CASE #91-01201
: : AWARD
vs. :
: Hassan Growney Securities :
: First Montauk Securities Corporation and :
: Ed Harris :
: Respondents :

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on April 16, 1991, Claimant, Ghaus M. Malik by and through his counsel Sher M. Akhtar, Esq., Sole Practitioner, Rochester Hills, Michigan, alleged that Respondent, Ed Harris an account executive of Respondent, First Montauk Securities Corporation solicited him to purchase 3,000 shares of Valley Forge Scientific Corporation for his three custodial accounts held at First Montauk Securities Corporation. Claimant further alleged that Respondent Ed Harris later advised him to sell these same securities and informed him he would receive a capital gain. Claimant contended that Respondent Ed Harris advised him to purchase 15,000 shares Primavera Laboratories, Inc. for these same three accounts. Claimant further contended that Respondent Ed Harris, now employed at Hassan Growney Securities, notified him to send \$3,900.00 for the purchase of these additional securities because the proceeds from the sale of the Valley Forge securities were not available. Claimant asserted that in September, 1990, he was notified by Respondent Ed Harris and Hassan Growney Securities that the Valley Forge transaction was complete and he would receive his proceeds shortly. Claimant further alleged that he never received his \$5,700.00 in proceeds.

Respondent, First Montauk Securities Corporation by and through its in-house counsel Robert I. Rabinowitz, Esq., maintained that in March, 1990, Claimant opened three separate custodial accounts and that the activity in each of the three accounts was identical. Respondent acknowledged that Claimant purchased 3,000 shares of Valley Forge Scientific Corporation to

be divided equally among the three custodial accounts and three separate certificates were delivered to the Claimant. Respondent further acknowledged that the Claimant purchased 15,000 shares of Primavera Laboratories, Inc. for three custodial accounts. Respondent contended that on January 29, 1991 Claimant authorized the securities in each of the three accounts to be transferred to Hassan Growney Securities. Respondent argued that there was no further activity in the three accounts after the transfer, therefore, Respondent is not liable to Claimant for any losses.

Respondents, Hassan Growney Securities and Ed Harris failed to file their respective Answers to the Statement of Claim.

RELIEF REQUESTED

Claimant, Ghaus M. Malik requested \$5,700.00 in actual damages, \$333.00 in interest plus attorney fees and other costs.

Respondent, First Montauk Securities Corporation requested the claim be denied in its entirety and costs be assessed against Claimant.

Respondents, Hassan Growney Securities and Ed Harris failed to file their respective Answers to the Statement of Claim.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, David H. Jarvis, 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 April 10, 1991 by the Respondent, First Montauk Securities Corporation on September 24, 1991 and not by Respondents Hassan Growney Securities and Ed Harris as required by Section 12 and 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure.

1. In accordance with Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure the Respondents, Hassan Growney Securities and Ed Harris were served by regular mail on May 15, 1991 and given an opportunity to respond, which they failed to do so. Respondents Hassan Growney Securities and Ed Harris were notified on July 11, 1991, via certified mail, that their respective Statement of Answers were overdue.

The signed certified mail receipt for Respondent Ed Harris was returned to the National Association of Securities Dealers, Inc. date stamped July 17, 1991, evidencing his receipt of this correspondence. Respondents, Hassan Growney Securities and Ed Harris failed to file their respective Answers to the Statement of Claim.

2. Pursuant to the By-Laws of the National Association of Securities Dealers, Inc. the arbitrator determined that Respondents Hassan Growney Securities and Ed Harris were required to submit to this arbitration proceeding and are, therefore, bound by the arbitrator's ruling and determination.

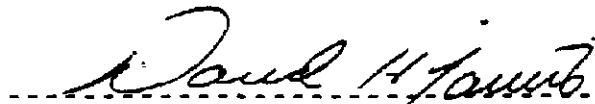
And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. The Claims of Claimant, Ghaus M. Malik against Respondent, First Montauk Securities Corporation are dismissed.
2. Respondents, Hassan Growney Securities and Ed Harris are jointly and severally liable and shall pay to the Claimant, Ghaus M. Malik, the sum of \$6,033.00 in damages inclusive of interest.
3. The Claimants request for attorney fees is denied.
4. The parties shall bear their respective costs.
5. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the National Association of Securities Dealers, Inc. The Respondents, Hassan Growney Securities and Ed Harris are jointly and severally liable and shall pay \$150.00 to the Claimant as reimbursement.

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AFFIRMATION

I, DAVID H. JARVIS, 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

DATE OF DECISION: March 199 1992