

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Arthur Bryborowych

91-01649

Name of Respondent(s)

Martin Sands
Jack Lasday

REPRESENTATION

For Claimant: Arthur Bryborowych appeared pro se.

For Respondent Martin Sands: Gary Franklin, Esq. of Sands Brothers, Inc. in New York City.

For Respondent Jack Lasday: Eric Rein, Esq. of Schwartz Cooper Kolb & Gaynor in Chicago, Illinois.

CASE INFORMATION

Statement of Claim filed: May 29, 1991.

Claimant's Submission Agreement signed on: May 23, 1991.

Respondent Martin Sands' Submission Agreement signed on: July 25, 1991.

Respondent Jack Lasday's Submission Agreement signed on: June 27, 1991.

Statement of Answer filed by Respondent Martin Sands on: July 29, 1991.

Statement of Answer filed by Respondent Jack Lasday on: July 1, 1991.

HEARING INFORMATION

Hearing Date/Sessions: December 17, 1991/two sessions

Hearing Location: New York City

CASE SUMMARY

Claimant Arthur Bryborowych alleged that Respondents Martin Sands and Jack Lasday traded stocks such as Hershey Foods Corp. and Zenith Electronics Corp.

on margin in his Keogh account when the account should have been accumulating value with dividends and profits reinvested. Respondent Jack Lasday maintained that as a representative of the firm Rodman and Renshaw, Inc., he had written to the Claimant and explained that the Claimant had authorized margin trading in his account. Respondent Jack Lasday further maintained that he was not involved in the trading activity complained of in the Claimant's Statement of Claim and was not a proper party to the proceeding. Respondent Martin Sands maintained that he was not advised that the Claimant's account was to be treated as a Keogh account when it opened, that all transactions that the Claimant complained of were authorized by the Claimant, and that the Claimant was a sophisticated investor with extensive experience.

RELIEF REQUESTED

Claimant requested damages of \$15,000.00 plus an unspecified amount of punitive damages. Respondent Jack Lasday asserted a Motion to Dismiss him from the proceedings and requested that the claims of the Claimant be dismissed. Respondent Martin Sands requested that the claims of the Claimant be dismissed.

OTHER ISSUES CONSIDERED & DECIDED

- (1) The parties agreed at the hearing 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 Jack Lasday was dismissed from this proceeding as a Respondent with prejudice after the Claimant withdrew his claims against Jack Lasday at the beginning of the hearing on December 17, 1991.
- (2) Respondent Martin Sands is liable and shall pay to the Claimant Arthur Bryhorowych the sum of Two Thousand Two Hundred Forty Four Dollars and Seventy Five Cents (\$2,244.75).

OTHER COSTS

- (1) The parties shall bear their respective costs.

FORUM FEES

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

(1) The NASD, Inc. shall retain the \$400.00 hearing session deposit previously submitted by the Claimant.

(2) Respondent Martin Sands is hereby assessed \$400.00 in forum fees.

Based upon the foregoing, a total of \$800.00 in forum fees has been assessed equally against the parties (two sessions x \$400.00 = \$800.00)

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

Concurring Arbitrators' Signatures

Name

Stan West
Stan West, Esq. (chairperson)

Public Arbitrator

Date of Award: February 18, 1992

STATE OF
COUNTY OF

New York
New York

S.S.:

On this 2nd day of February, 1992, before me personally appeared Sten West to me known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he/she executed the same.

KAREN A. WEST
Notary Public, State of New York
No. 21-406348
Qualified in New York County
Commission Expires April 16, 1992

Karen A. West

FORUM FEES

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Based upon the foregoing, a total of \$800.00 in forum fees has been assessed equally against the parties (two sessions x \$400.00 = \$800.00)

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

Concurring Arbitrators' Signatures

Name

Stan West, Esq. (chairperson)

Public Arbitrator



Gary M. Landau, Esq.

Public Arbitrator

Karl F. Beresky

Industry Arbitrator

Date of Award: February 18, 1992

STATE OF *NEW YORK*
COUNTY OF *Queens*

S.S.:

On this *10* day of *FEBRUARY*, 19*72*, before me personally appeared *GARY M. LANDAU*, to me known to ~~me~~ to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he/she executed the same.



ARTHUR S. SACCOCCIA
NOTARY PUBLIC, State of New York
No. 41-4872241
Qualified in Queens County
Commission Expires *2-27-78*

FORUM FEES

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

(1) The NASD, Inc. shall retain the \$400.00 hearing session deposit previously submitted by the Claimant.

(2) Respondent, Martin Sander is hereby assessed \$400.00 in forum fees.

Based upon the foregoing, a total of \$800.00 in forum fees has been assessed equally against the parties (two sessions x \$400.00 = \$800.00)

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

Concurring Arbitrators' Signatures

Name

Stan West, Esq. (chairperson)

Public Arbitrator

Gary M. Landau, Esq.

Public Arbitrator

Karl F. Beresky
Karl F. Beresky

Industry Arbitrator

Date of Award: February 18, 1992

STATE OF *New York*
COUNTY OF *New York*

S.S.:

On this *14th* day of *February*, 1992, before me personally appeared *Karl F. Burek* to me known to me to be the individual described in and who executed the ~~instrument~~ instrument and be duly acknowledged to me that he/~~she~~ executed the same.

Susan J. Unger

SUSAN J. UNGER
NOTARY PUBLIC, State of New York
No. 4971387
Qualified in Nassau County
Commission Expires September 4, 1992