

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

National Association of
Securities Dealers, Inc.
NASD Financial Center
33 Whitehall Street
New York, N.Y. 10004
FAX (212) 858-4389

In the Matter of the Arbitration BetweenName of Claimant

Earnest G. Sharpe

91-01898

Name of Respondents

First Fidelity Capital Corp.
Ted L. Rubin
Ian R. Hosang

REPRESENTATION

For Claimant Earnest G. Sharpe ("Claimant"): Mr. Sharpe appeared pro se.

For Respondent First Fidelity Capital Corp. ("FFOC"): FFOC was not represented by counsel, nor did a representative for FFOC appear at the hearing.

For Respondent Ted L. Rubin ("Rubin"): Rubin was not represented by counsel, nor did a representative for Rubin appear at the hearing.

For Respondent Ian R. Hosang ("Hosang"): Mr. Hosang appeared pro se.

CASE INFORMATION

Statement of Claim filed: June 14, 1991.

Claimant's Submission Agreement signed on: June 14, 1991.

Statement of Answer filed by Respondent FFOC on: As required by Sections 25 and 12 of the Code of Arbitration Procedure ("Code"), FFOC did not file a Statement of Answer or Submission Agreement.

Statement of Answer filed by Respondent Rubin on: As required by Sections 25 and 12 of the Code, Rubin did not file a Statement of Answer or Submission Agreement.

Statement of Answer filed by Respondent Hosang on: January 21, 1992.

Respondent Hosang's Submission Agreement signed on: January 21, 1992.

HEARING INFORMATION

Hearing Dates/Sessions: February 12, 1992/2 sessions.

Hearing Location: NASD, New York City.

CASE SUMMARY

Claimant alleged FFOC's prices included an average markup of two hundred fifty two (252%) percent. He stated he purchased stock in Hybrilronics, Inc.,

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Resource Network International and Original Diet Pizza through Hosang. Claimant alleged that a comparison of the National Quotation Bureau's price quotes with FFCC's price quotes indicates there were substantial markups.

Respondent FFCC did not file a Statement of Answer.

Respondent Rubin did not file a Statement of Answer.

Respondent Hosang alleged he recommended all three stocks to Claimant because he felt they would appreciate in value, which they did, except Hybrilronics. Hosang stated Claimant never complained about the stocks or FFCC as he had other brokerage accounts where he did check on the prices of the stocks.

RELIEF REQUESTED

Claimant requested: actual damages in the amount of \$25,227.81, and interest through April 30, 1992.

Respondent FFCC requested: FFCC made no formal plea.

Respondent Rubin requested: Rubin made no formal plea.

Respondent Hosang requested: Hosang made no formal plea.

OTHER ISSUES CONSIDERED & DECIDED

The parties present at the hearing 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, these parties have agreed to receive conformed copies of the Award while the original remains on file with the NASD.

1- Pursuant to the by-laws of the NASD, the arbitrator determined that Respondents FFCC and Rubin were required to submit to this arbitration and, therefore, were bound by this arbitrator's rulings and determinations.

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:

- 1- Respondents FFCC and Rubin are liable, jointly and severally, and shall pay to Claimant the sum of TWENTY FIVE THOUSAND 00/100 DOLLARS (\$25,000.00);
- 2- Claimant's claim against Respondent Hosang is denied;
- 3- All other claims are dismissed;

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4- The parties shall each bear their own expenses.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the NASD shall retain the \$100.00 non-refundable filing fee previously deposited and the following Forum Fees are assessed.

2 sessions X \$300.00 = \$600.00 minus hearing session deposit of \$300.00 = net \$300.00 due.

Forum fees Assessed Against:

1- Respondents FFCC and Rubin, jointly and severally, in the amount of \$300.00. Respondents FFCC and Rubin, jointly and severally, shall also reimburse Claimant the sum of \$400.00 to represent the \$100.00 non-refundable filing fee and \$300.00 to represent the hearing session deposit.

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

Concurring Arbitrators' Signatures


John Edward McCracken/Public Arbitrator

NASD DATE OF DECISION: March 3, 1992