

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

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In the Matter of the Arbitration Between :

James Ko :

Claimant :

CASE #91-03277  
AWARD

vs. :

Joe Kahn  
Advest, Inc. :

Respondents :  
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CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on October 21, 1991, Claimant, James Ko who appeared Pro Se, alleged that Respondents Advest, Inc. and Joe Kahn sold his 3 calls of Dell Computer Corporation on July 9, 1991 for a total price of \$2,503.41. Claimant further alleged that Respondents owed him the sum of \$972.53 representing the difference of the payment of \$1,530.88 he received for this sale and the total price at which the calls sold.

Respondents, Advest, Inc. and Joe Kahn by and through their in-house counsel William C. Freitag, Esq., maintained that the Dell Computer Corporation calls sold for a total of \$2,503.41 and that the \$972.53 difference claimed is clearly ascertainable from Claimant's account statements. Respondents further maintained that \$655.16 of the \$972.53 difference represents the Internal Revenue Services 20% withholding because Claimant failed to deliver his W-9 form required by the IRS within 30 days of opening his account. Respondents contended that \$1.30 was a margin interest charge associated with loan interest charges for the month of June, 1991. Respondents further contended that Claimant failed to account for a \$315.98 check issued to him on July 11, 1991. Respondents argued that the three entries account for the amount of the claim, therefore, there is no issue of material fact or any potential liability.

RELIEF REQUESTED

Claimant, James Ko requested \$972.53 in actual damages.

Respondents, Advest, Inc. and Joe Kahn requested that the claim be dismissed in its entirety.

AWARD

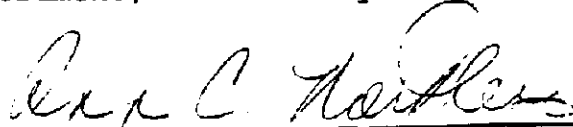
Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Ann C. Northern, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on October 8, 1991, by the Respondent, Advest, Inc. on November 25, 1991 and by Respondent, Joe Kahn on December 16, 1991.

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, James Ko against Respondents, Advest, Inc. and Joe Kahn are dismissed.
2. The parties shall bear their respective costs.
3. The \$30.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc. Respondents, Advest, Inc. and Joe Kahn shall pay \$30.00 to the Claimant, James Ko, as reimbursement.

AFFIRMATION

I, ANN C. NORTHERN, 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.

  
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Signature of Arbitrator

DATE OF DECISION: February 24, 1992

STATE OF: New York

SS:

COUNTY OF: Kings

On this 14 day of February 19 92, before me personally appeared Ann C. Northern to me known and known before me to be the individual described in and who executed the foregoing instrument and she duly acknowledged to me that she executed the same.

Mitchell S. Friedman

MITCHELL S. FRIEDMAN  
Notary Public, State of New York  
No. 41-4526490  
Qualified in Queens County  
Commission Expires Jan. 31, 1993

STATE OF: New York

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