

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 Between

Name of Claimant

Israel Shurkin

92-00365

Name of Respondent

Salomon Brothers Inc

REPRESENTATION

For Claimant Israel Shurkin ("Claimant"): he appeared pro se.  
For Respondent Salomon Brothers Inc. ("Salomon"): Lindy Johnson, of Cleary,  
Gottlieb et al.

CASE INFORMATION

Statement of Claim filed: January 27, 1992.  
Motion to Bar Late Answer filed: April 6, 1992.  
Claimant's Submission Agreement signed on: January 27, 1992.  
Claimant's Reply to Respondent's Motion to Dismiss for Lack of Standing and  
Failure to State a Claim filed: August 4, 1992.

Statement of Answer filed by Respondent on: May 5, 1992.  
Opposition to Motion to Bar Late Answer filed: July 23, 1992.  
Respondent's Submission Agreement signed on: May 4, 1992.  
Respondent's Motion to Dismiss for Lack of Standing and Failure to State A  
Claim filed: July 31, 1992.

HEARING INFORMATION

Hearing Date/Session: August 27, 1992/1 session.  
Hearing Location: NASD, Inc., New York, NY.

CASE SUMMARY

Claimant alleged he wrote 200 August calls of Time Warner, Inc. ("TW")  
strike price of \$80.00; the calls included 12,000 rights to buy TW  
at \$80.00; the rights expired on August 5, 1992 at 12:00 PM; on August 5,  
1991 he owned the stock and the rights; he exercised his 12,000 rights as he  
did not know if he was to be "exercised"; on August 6, 1991, Prudential  
Securities, Inc. ("PSI") informed him that 178 calls were exercised  
translating into 10,680 rights; and PSI delivered 10,680 shares at \$80.00.  
Claimant alleged approximately one (1) month later PSI notified him that his  
account was debited \$25,632.00 for non-delivery of the rights and told him

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the caller of his stock on August 5, 1991 sold the rights on the open market and the end or final buyer was Salomon which had an arrangement with TW that they would be paid \$2.40 for each right tendered.

Claimant alleged his obligation to deliver the stock and rights was limited to actual delivery of stock and rights or the fair market value of the stock and rights; he did not have to anticipate that the final buyer of these rights would be Salomon which obligated him to pay the extra fee negotiated between TW and Salomon.

Respondent alleged Shurkin made the decision, on August 5, 1991, to exercise all of his rights and convert them into TW common shares prior to their expiration; on August 6, 1991, PSI was informed that 178 TW September 80 calls had been exercised against Claimant's account, thus Claimant was liable to deliver 17,800 shares of common stock and 10,680 rights. Respondents alleged Shurkin was unable to deliver any rights to the party who had exercised the calls, that party failed to make delivery of the 10,680 rights which ultimately resulted in a chain of transactions that led to the failure of Salomon to receive said rights; and because the rights were not delivered to Salomon it was unable to purchase, on behalf of the underwriters, 10,680 shares of common stock for \$80.00 per share through the exercise of rights it had purchased on their behalf and failed to collect its fee of \$2.40 per share. Respondent alleged the party or parties directly responsible for the failure to deliver the 10,680 rights made Salomon whole by delivering 10,680 shares of common stock at \$80.00 per share plus \$25,632 in damages and at this point Salomon's participation in the chain of transactions relating to Claimant's rights ceased. Salomon maintained after PSI learned Salomon was the final buyer of the rights associated with the calls made against Claimant's account and would have been entitled to a fee of \$2.40 per share had it been able to exercise the rights to purchase common stock, PSI debited Claimant's account of \$2.40 per share for the 10,680 shares.

#### RELIEF REQUESTED

Claimant requested: actual damages in the amount of \$25,632.00.

Respondent requested: denial of all claims asserted in Shurkin's demand for arbitration and a dismissal of this action; costs and disbursements.

#### OTHER ISSUES CONSIDERED & DECIDED

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

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while the originals remain on file with the NASD.

- 1- Claimant's Motion to Bar Respondent's Late Answer is denied;
- 2- This arbitration panel does not rule as to whether Claimant has standing to bring this claim against Respondent before the NASD, Inc., but assumes for the purpose of Respondent's Motion that the panel has jurisdiction over Claimant's claim.

**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- Claimant's claim against Respondent is dismissed without prejudice to any claims which Claimant may have against any other person and without prejudice to any claim of any other person against Respondent arising out of the transactions involved in Claimant's claim;
- 2- Each party shall bear its own expenses, including attorneys' fees.

**FORUM FEES**

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

1 session X \$400.00 = \$400.00

Forum fees Assessed Against:

- 1- Claimant, in the amount of \$200.00; however, in lieu of further payment, the NASD shall retain \$200.00 of the \$400.00 hearing session deposit;
- 2- Respondent, in the amount of \$200.00; however, in lieu of payment to the NASD, Respondent shall reimburse Claimant the amount of \$200.00.

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

Arbitrator Signature

  
David N. Brainin/Public Arbitrator

Date of Decision: October 2, 1992

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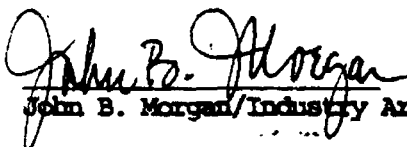
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Arbitrator Signature

  
John B. Morgan/Industry Arbitrator

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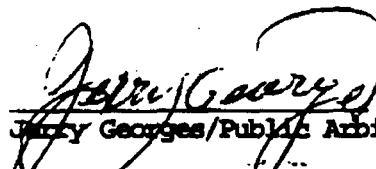
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Jerry Georges/Public Arbitrator

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