

PUBLIC

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Jerry Cannon

Claimant

CASE #92-02015

vs.

Waterhouse Securities, Inc.

Pamela Elliott

Respondents

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on June 16, 1992. Claimant Jerry Cannon who appeared Pro Se, alleged that he had an account with Respondent Waterhouse Securities, Inc. which was restricted to a "cash in account basis", which prevents Claimant from purchasing securities where the amount would exceed the amount of cash he had in his account. and in fact, on a previously attempted trade, Respondent Waterhouse Securities, Inc. refused to carry out on order because of insufficient funds in his account. Claimant further alleged that he placed an order to purchase 30,000 shares of GES at 7/16 with Respondent Pamela Elliott, Personal Account Officer of Respondent Waterhouse Securities, Inc.; however, before finalizing the order Claimant informed Respondent Pamela Elliott about the possibility of over extending himself. Claimant contended that knowing his account was restricted to cash on hand and after bringing the subject to the attention of the account officer, he felt secure in believing Respondents would not execute an order which would overextend his account; however, Respondents did execute an order that overextended Claimants account. Claimant further contended that after Respondents realized their mistake, Respondent Pamela Elliott called Claimant to inform him he could sell everything at market price or send Respondents a check overnight, at which time, Claimant wanted to sell his shares at a specific price but Respondent Pamela Elliott did not permit him to do this, so Claimant offered to send Respondents \$5,000.00 and the rest shortly thereafter, but was not permitted to do this. Claimant asserted that Respondent Pamela Elliott informed him that his only option was to sell everything right now at market; and subsequently, Respondent Pamela Elliott took control of Claimant's account and without his knowledge, consent or permission proceeded to sell off his shares. Claimant further asserted that Respondent Pamela Elliott did not notify him she sold ~~the~~ stock thus he placed a limit order to sell 16,300 shares which was accepted; however, without

Claimant's knowledge, consent or permission the order was canceled and more shares were sold, whereby, Claimant was left with 14,800 shares. Claimant further alleged that he later did not send Respondents money to settle a trade which was sold off without Claimant's knowledge or consent.

Respondents, Waterhouse Securities, Inc. and Pamela Elliott by and through their Vice President of Compliance, Robert F. X. Bohrer, maintained that they decided to place Claimant Jerry Cannon's buy order based upon the equity in his account and the understanding that Claimant would remit any balance in full, at which time, when Claimant informed Respondents he would not pay the balance Respondents took action to eliminate the debit. Respondents further maintained that Claimant entered into an agreement with Respondent Waterhouse Securities, Inc. to deposit additional funds on a trade should it be necessary and when it became necessary Claimant could not or would not meet his obligation, thus, Respondents were forced to take action in Claimant's account to meet his obligation.

RELIEF REQUESTED

Claimant Jerry Cannon requested \$10,000.00 in actual damages.

Respondents Waterhouse Securities, Inc. and Pamela Elliott requested the claim be dismissed.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, George T. Barrow, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by Claimant on June 10, 1992 and by the Respondents on October 30, 1992.

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. Claimant Jerry Cannon's Motion to Compel is hereby denied.
2. The claims of Claimant Jerry Cannon against Respondents Waterhouse Securities Inc. and Pamela Elliott are dismissed in their entirety.
3. The parties shall bear their respective costs.
4. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Jerry Cannon shall be retained by the NASD, Inc.

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AFFIRMATION

I, GEORGE T. BARROW, 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 24, 1993