

PUBLIC

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Janet K. and Mark O. Conyers

92-03108

Name of Respondents

William H. Seals
H.K. Freeland & Company, Inc.
Reynolds Kendrick Stratton

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on September 15, 1992, Claimants Janet K. and Mark O. Conyers, who appeared Pro Se, alleged that Respondent William H. Seals, broker at Respondent H.K. Freeland & Company, Inc., made unauthorized trades on their account. Claimants further alleged that their broker was Mr. Chuck Bacos and they told him they only wanted him to handle their transactions. Claimants contended that on August 22, 1991 Respondent William H. Seals sold 10,000 shares of Scorpion Technologies stock, bought 600 shares of Triton Energy, at which time 300 shares were purchased on margin, whereby Claimant did not even have a margin account; in addition 2,000 shares of Newport Carpet Mill stock were purchased without Claimants' authorization. Claimant further contended that before they could seek further help Respondent H.K. Freeland & Company, Inc. was seized by the Securities and Exchange Commission ("SEC"), whereby, eventually Claimants were informed that the account was transferred to Respondent Reynolds Kendrick Stratton. Claimants asserted Respondent Reynolds Kendrick Stratton told them that they only inherited the account and that there was nothing they could do about it, whereby, shortly after the call, Claimants received a margin call by mailgram. Claimants further asserted that 250 shares of Triton were sold to cover the unauthorized margin call which caused Claimants to suffer losses in their account.

Respondent William H. Seals, who appeared Pro Se, maintained that he was asked by Mr. Bacos if he would like to handle a "problem" account, whereby, he agreed and Mr. Bacos gave him Claimants Janet K. and Mark O. Conyers account. Respondent William H. Seals further

maintained that after conversations with Claimants, they asked him to sell their Scorpion Technologies stock and to purchase Triton Energy on margin and subsequently purchase Newport Carpet Mills. Respondent William H. Seals contended that later Triton Energy stock fell a couple of points and Claimants called worried about the possibility of receiving a margin call whereby Respondent William H. Seals spoke to Mr. Bacos and Mr. Freeland, President of Respondent H.K. Freeland & Company, Inc., who told him "not to worry" and assured Respondent William H. Seals "everything would work out O.K." Respondent William H. Seals further contended that he immediately contacted Claimants to recommend they sell their Triton Energy, given the opportunity to do so in a profitable situation; however, Claimant chose to hold on to the stock. Respondent William H. Seals asserted that without the trades in question, Claimants would have lost over \$16,000.00.

Respondent H.K. Freeland & Company, Inc. by and through their court appointed receiver Laura A. Goldin, Esq. of Morrison & Foerster, New York, New York, maintained that on November 26, 1991 it ceased doing business and there was entered in the U.S. District Court for the Southern District a Final Judgement of Permanent Injunctive and other Equitable Relief as to Respondent H.K. Freeland & Company, Inc. Respondent H.K. Freeland & Company, Inc. further maintained that its assets were not seized by the SEC, and denied all of the claims and Respondent H.K. Freeland & Company, Inc. is currently without any assets. Respondent H.K. Freeland & Company, Inc. asserted a Motion to Dismiss for failure to state a claim.

Respondent Reynolds Kendrick Stratton maintained that Claimants Janet K. and Mark O. Conyers failed to allege any activity or involvement concerning the allegations made in the Statement of Claim. Respondent Reynolds Kendrick Stratton further maintained that it is in no way responsible or liable for the alleged actions of Respondents William H. Seals and/or H.K. Freeland & Company, Inc. Respondent Reynolds Kendrick Stratton contended that Claimants have not identified how it is liable to Claimants for any loss and Respondent Reynolds Kendrick Stratton states that it is not liable to Claimants for any loss. Respondent Reynolds Kendrick Stratton further contended that it acted as the clearing firm for Respondent H.K. Freeland & Company, Inc. pursuant to the Fully Disclosed Correspondent Agreement (the "Agreement") executed. Respondent Reynolds Kendrick Stratton asserted that they never had direct contact with Claimants but merely provided clearing services as instructed by Respondent H.K. Freeland & Company, Inc. Respondent Reynolds Kendrick Stratton further alleged a Motion to Dismiss, that it acted entirely according to SEC and NASD procedures regarding clearance and execution of broker's orders.

Respondent Reynolds Kendrick Stratton asserted a Cross-claim against Respondent H.K. Freeland & Company, Inc. whereby they alleged that the Agreement provides it is Respondent H.K. Freeland & Company, Inc.'s responsibility to monitor and supervise the activities of its employees. Respondent Reynolds Kendrick Stratton further alleged that the Agreement provided that Respondent H.K. Freeland & Company, Inc. indemnify them, with regard to all costs and expenses.

RELIEF REQUESTED

Claimants Janet K. and Mark O. Conyers requested \$10,000.00 in actual damages.

Respondent William H. Seals requested the claim be dismissed.

Respondent H.K. Freeland & Company, Inc. requested the claim be dismissed and the Cross-claim asserted by Respondent Reynolds Kendrick Stratton be dismissed.

Respondent Reynolds Kendrick Stratton requested the claim be dismissed and asserted a Cross-claim against Respondent H.K. Freeland & Company, Inc. for indemnification.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Roland J. Santoni, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on October 2, 1992, by the Respondent William H. Seals on November 13, 1992, by the Respondent H.K. Freeland & Company, Inc. on December 28, 1992 and by the Respondent Reynolds Kendrick Stratton on November 16, 1992.

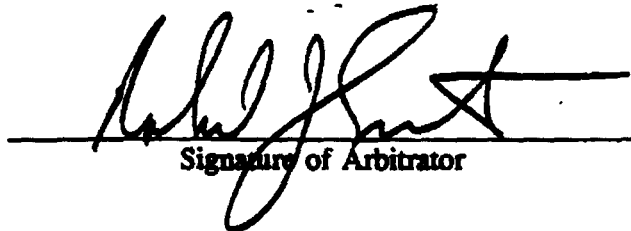
And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Respondent Reynolds Kendrick Stratton is liable and shall pay to the Claimants Janet K. and Mark O. Conyers the sum of \$8,053.23 in damages.
2. The claims of Claimants Janet K. and Mark O. Conyers against Respondents H.K. Freeland & Company, Inc. and William H. Seals are dismissed.
3. The Cross-claim of Respondent Reynolds Kendrick Stratton against Respondent H.K. Freeland & Company, Inc. is dismissed.
4. The parties shall bear their respective costs.
5. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants Janet K. and Mark O. Conyers shall be retained by the NASD, Inc. Respondent Reynolds Kendrick Stratton is liable and shall pay to the Claimants the sum of \$75.00 as partial reimbursement.

6. The \$500.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by Crossclaimant Reynolds Kendrick Stratton shall be retained by the NASD, Inc. In addition, Respondent Reynolds Kendrick Stratton shall pay the sum of \$75.00 to the NASD, Inc. for the remaining balance owed.

AFFIRMATION

I, **ROLAND J. SANTONI, 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: May 18, 1993