

N.A.S.D.

NATIONAL ASSOCIATION OF SECURITIES DEALERS

IN THE MATTER OF THE ARBITRATION BETWEEN

Name of Claimant

Patricia Spencer

vs.

92-03777

Name of Respondent

U.S. Clearing Corporation

REPRESENTATION

For Claimant: Patricia Spencer appearing pro se.

For Respondent: Thomas J. McCabe, Esq.

CASE INFORMATION

Statement of Claim filed: November 5, 1992

Statement of Reply filed on January 13, 1993

Claimant's Submission Agreement signed on: October 30, 1992

Statement of Answer and Counterclaim filed by Respondent on: January 8, 1993

Respondent's Submission Agreement signed on: No Submission Agreement received.

HEARING INFORMATION

Hearing Date/Sessions: May 14, 1993/Two Sessions

Hearing Location: NASD offices located in New York City, New York.

CASE SUMMARY

Claimant alleged that Respondent fraudulently sold shares of Zenith Electronics Corp. stock from Claimant's margin account after receiving Claimant's check for margin call. Claimant further alleged that Respondent knew or should have known of claimant's check and therefore the sale was unnecessary and unjustly made.

Respondent maintains that Claimant's check was received after her account was partially liquidated.

Respondent also filed a Counterclaim in which it was alleged that Claimant filed a frivolous, defamatory lawsuit in federal court against Respondent despite an alleged written agreement to arbitrate disputes with Respondent. Respondent further alleged that Claimant refused to withdraw her federal action and file an arbitration claim and that Respondent incurred costs and legal fees in order to move the case to arbitration.

In reply to Respondent's Counterclaim, Claimant denied any knowledge of "small print" alleged by Respondent. Claimant further maintained that she met her obligations with respect to the Margin Agreement and alleged that Respondent negligently and knowingly failed to meet their obligations.

RELIEF REQUESTED

Claimant requested the Panel award her compensatory and punitive damages in the amount of \$25,000.

Respondent requested the following relief:

- a) that the Statement of Claim be dismissed in its entirety;
- b) that Claimant be required to pay Attorneys' fees and costs relating to the arbitration;
- c) that Claimant be required to pay \$3,235 on Respondents' counterclaim for attorneys' fees and costs in connection with the federal action.

AWARD

After considering the pleading, 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:

- a) Respondent U.S. Clearing Corp. is hereby liable and shall pay to Claimant the sum of \$1,420.
- b) The Counterclaim is hereby dismissed.

Concurring Arbitrators' Signatures
Name

Public/Industry

Joseph J. Arata, Esq.

Nicholas J. Cooney, Esq.

Jerome H. Levy

Date of Decision: September 23, 1993

STATE OF

ny

S.S.:

COUNTY OF

ny

On this 22 day of Sept, 1993, before me personally appeared Jerome H. Levy known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he/she executed the same

Mr. New

MARK C. [unclear]
Notary Public, State of New York
No. 4995183
Qualified in Queens County
Commission Expires April 20, 1994

Concurring Arbitrators' Signatures

Name

Public/Industry



Joseph J. Arata, Esq.

Nicholas J. Cooney, Esq.

Jerome H. Levy

Executed on:

~~Date of Decision:~~ 8-11-93

Date of Decision: September 23, 1993

STATE OF

COUNTY OF

S.S.:

On this 22 day of Sept, 1993, before me personally appeared Joseph J. Arata, Esq. known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he/she executed the same



MARK O. GLUT
Notary Public, State of New York
No. 4995193
Qualified in Queens County
Commission Expires April 22, 99



c) Each party shall bear their own costs including attorneys' fees.

d) Respondent shall pay the forum fees for the cost of this proceeding.

\$100.00 non-refundable filing fee for claim.

\$500.00 non-refundable filing fee for counter-claim.

2 Sessions X \$400.00 = \$800.00

TOTAL: \$1,400.00

1) Respondent shall pay the NASD the sum of \$1,300.00, to be offset by the \$400.00 hearing session deposit already paid to the NASD by the Claimant. Net Due NASD: \$900.00

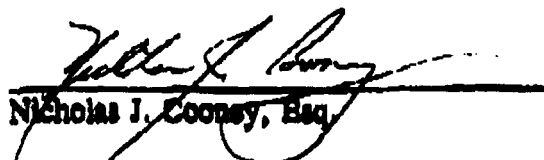
2) Respondent shall reimburse the Claimant \$400.00 representing the hearing session deposit paid to the NASD.

3) The NASD shall retain the \$100.00 filing fee paid by Claimant to the NASD.

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

Concurring Arbitrators' Signatures
NAME

Public/Industry


Nicholas J. Cooney, Esq.

Public

Date of Decision: September 23, 1992

STATE OF

Ny

COUNTY OF

Ny

S.S.:

On this *22* day of *Sept*, 1993, before me personally appeared
Nicholas J. Cooney, Esq. known to me to be the individual described in and who executed the
foregoing instrument and be duly acknowledged to me that he/she executed the same

Mark O. Glut

MARK O. GLUT
Notary Public, State of New York
No. 4986193
Qualified in Queens County
Commission Expires April 20, 19*94*