

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Name of Claimant

Rakesh Mehra

93-01406

Name of Respondent

David A. Noyes & Company

REPRESENTATION OF PARTIES

Claimant Rakesh Mehra ("Mehra") was represented at the hearing by Donald H. Segal, Esq., of Segal & Segal, Chicago, Illinois.

Respondent, David A. Noyes & Company ("David Noyes") was represented by Robert Cram, Esq. of David A. Noyes & Company, Indianapolis, Indiana.

CASE INFORMATION

The Statement of Claim was filed on April 5, 1993. Amended Statement of Claim was filed on April 7, 1994. Submission Agreement of Claimant was signed on February 28, 1993.

Statement of Answer was filed by Respondent on July 6, 1993. Submission Agreement of Respondent was signed on June 29, 1993.

HEARING INFORMATION

A pre-hearing conference was held on June 15, 1994 for one session with the panel.

The hearing was held on March 29, 1994 for one session and July 8, 1994 for one session in Chicago, Illinois for a total of two sessions.

CASE SUMMARY

Claimant Mehra alleged that Respondent David Noyes allowed Mehra to continue to sell Medumine stock short knowing that Mehra did not have enough funds in his account to cover his short position. In its amendment to the original claim, Mehra alleged that David Noyes was negligent in allowing Mehra to sell stocks short without knowing his lack of sophistication and his salary.

In its Motion To Dismiss which was filed as part of its Answer, David Noyes alleged that there is no private cause of action for a private investor for alleged violation of Regulation T which governs the initial margin requirements for securities actions. As its Answer, David Noyes stated that Mehra's account was properly margined when all short sales were made. David Noyes further stated that they were not negligent in any manner and that it was Mehra's decision to sell short.

RELIEF REQUESTED

Claimant requested the amount of \$125,000.00.

Respondent requested that an Award be entered dismissing all claims against it and assessing all costs and fees, including reasonable attorney's fees against claimant.

OTHER ISSUES CONSIDERED & DECIDED

At the commencement of the hearing held on July 8, 1994, counsel for respondent re-raised its Motion To Dismiss; counsel for claimant responded. The panel granted the motion. The Respondent was dismissed and the arbitration hearing adjourned.

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 while the originals remain on file with the N.A.S.D.

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. The Claimant's Statement of Claim is denied and dismissed in its entirety (see Other Issues above).

FORUM FEES

Pursuant to §43(c) of the N.A.S.D. Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. ("N.A.S.D.") shall retain the non-refundable filing fee in the amount of \$200.00 and shall retain as forum fees the hearing session deposit in the amount of \$750.00 previously deposited with the N.A.S.D. by the Claimant.

Forum fees are calculated at the rate of \$750.00 per hearing session (x 2 sessions minus hearing session deposit = 1 session x \$750) = \$750 due plus \$300.00 for the prehearing conference = net \$1050 due to the N.A.S.D.

The panel has assessed the additional forum fees against Claimant Rakesh Mehra in the amount of \$1050.

Additional Forum Fees assessed by the panel are payable to the National Association of Securities Dealers, Inc.

By The Arbitration Panel:

s/s Richard C. Moenning

Richard C. Moenning, Esq.
Public Arbitrator, Presiding Chair

Dated:

A u g u s t 3 , 1 9 9 4

s/s Gregory D. Bruno

Gregory D. Bruno, Esq.
Public Arbitrator

August 2, 1994

s/s Richard E. Moore

Richard E. Moore
Industry Arbitrator

August 1, 1994

Date Award Served By The N.A.S.D.: September 2, 1994