

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Herbert S. Geist

vs.

Case No.

93-01942

Name of Respondent

Texas Capital Securities, Inc.

REPRESENTATION

For Claimant, Herbert S. Geist ("Claimant"), Steven W. Wolfe, Esq., from the law firm of Kantor, Davidoff, Wolfe, Rabbino, et al., located in New York, New York.

For Respondent, Texas Capital Securities, Inc. ("Respondent"), Anne Feldstein, Esq. from the law firm of Schneck, Weldman, Hashmall & Mischel located in New York, New York.

CASE INFORMATION

Statement of Claim was filed on May 14, 1993.

Claimant's Submission Agreement was signed on May 3, 1993.

Statement of Answer and Motion to Dismiss were filed by Respondent Texas Capital Securities, Inc. on July 23, 1993.

Respondent's Submission Agreement was signed on July 23, 1993.

HEARING INFORMATION

Hearing Date/Sessions: April 5, 1994 - 2 sessions

Hearing Location: NASD Offices, 33 Whitehall Street, New York, New York

CASE SUMMARY

Claimant alleges that Respondent failed to execute a purchase transaction for 10,000 shares of Hungarian Telephone and Cable Corporation and failed to deliver those shares. Claimant maintains Respondent confirmed the transaction both orally and in writing. Further, Claimant asserts that Respondent's refusal to execute the purchase was improper and, had Respondent executed the transaction, Claimant would have realized a profit in the amount of \$70,000.00 if he had sold the shares later.

Respondent denies any wrongdoing and liability for Claimant's alleged loss. Respondent asserts that Claimant failed to provide funds to purchase the shares in dispute. Respondent further asserts that Claimant suffered no damages because he did not own the shares. Respondent contends that Claimant failed to state a claim upon which relief may be granted.

RELIEF REQUESTED

Claimant requests damages in the amount of \$70,000.00, which represents alleged lost profit.

Respondent, by its Answer and Motion to Dismiss, requests that the claim be dismissed pursuant to Section 12(b) or Section 16 of the *Code of Arbitration Procedure* and that Claimant be assessed \$2,000.00 for attorneys' fees and costs.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing and post hearing submissions by the parties on April 8, 1994, April 28, 1994 and May 12, 1994, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent's Motion to Dismiss is denied;
2. All other outstanding motions and applications are denied;
3. The Claimant's claim is denied;
4. Each party shall bear its own costs.

FORUM FEES

Pursuant to Section 43(c) of the *Code of Arbitration Procedure*, the following Forum Fees are assessed and shall be borne equally by the parties:

Non-refundable Filing Fee	\$150.00
Hearing Session Fee (2 sessions x 500.00)	<u>1,000.00</u>
Total Fees	\$1,150.00

1. Claimant is assessed a \$150.00 non-refundable filing fee and \$500.00 for half of the hearing session fee. Claimant previously paid \$650.00 and therefore, owes nothing.
2. Respondent is assessed \$500.00 as half of the hearing session fee. Respondent previously paid \$1,000.00, therefore, is entitled to a \$500.00 refund.

Respondent requested a postponement of the hearing that was scheduled for March 11, 1994. The panel granted the request and assessed the Respondent a \$500.00 postponement fee which has been paid.

ARBITRATION PANEL

James M. Baumann, Esq.

Public Chairperson

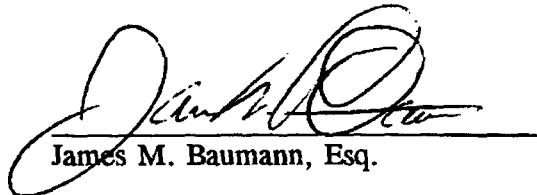
Cynthia L. Boyce, Esq.

Public Panelist

Joseph E. DaGrosa

Industry Panelist

Concurring Arbitrator's Signature



James M. Baumann, Esq.

Date of Decision: October 25, 1994

Non-refundable Filing Fee	\$150.00
Hearing Session Fee (2 sessions x 500.00)	<u>1,000.00</u>
Total Fees	\$1,150.00

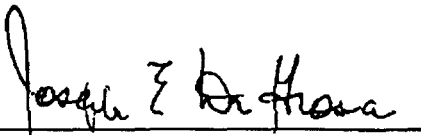
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ARBITRATION PANEL

James M. Baumann, Esq.	Public Chairperson
Cynthia L. Boyce, Esq.	Public Panelist
Joseph E. DaGrosa	Industry Panelist

Concurring Arbitrator's Signature



Joseph E. DaGrosa

Date of Decision: October 25, 1994

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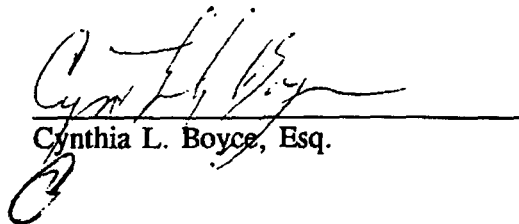
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ARBITRATION PANEL

James M. Baumann, Esq.	Public Chairperson
Cynthia L. Boyce, Esq.	Public Panelist
Joseph E. DaGrosa	Industry Panelist

Concurring Arbitrator's Signature


Cynthia L. Boyce, Esq.

Date of Decision: October 25, 1994

Page 4

NASD Arbitration No. 93-01942

STATE OF:

SS:

COUNTY OF:

On this 24 day of October, 1994, before me personally appeared **James M. Baumann, Esq.** know and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same.



VALERIE I. BAILEY
NOTARY PUBLIC, State of New York
No. 24-4940303
Qualified in Kings County
Comm. to Exp. July 18, 1996

Page 4

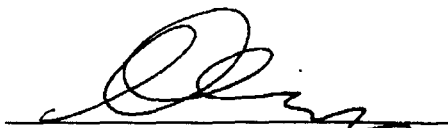
NASD Arbitration No. 93-01942

STATE OF:

SS:

COUNTY OF:

On this *24th* day of *October*, 1994, before me personally appeared **Joseph E. DaGrosa** know and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same.



Notary Public, State of New York
No. 24-4940306
Qualified in Kings County
Commission Expires July 18, 1995

VALERIE I. BAILEY
NOTARY PUBLIC, State of New York
No. 24-4940303
Qualified in Kings County
Commission Expires July 18, 1995

Page 4

NASD Arbitration No. 93-01942

STATE OF: New York

COUNTY OF: King's

SS:

On this 24 day of Oct, 1994, before me personally appeared **Cynthia L. Boyce, Esq.** know and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same.

Hilary A. Cignoni

Notary Public for New York

My Comm. Expires 12/31/96