

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Benjamin Singer

93-02359

Name of Respondents

Halpert and Company, Inc.,
Michael Citron and
Alan Halpert

REPRESENTATION

For Claimant Benjamin Singer ("Claimant"): Claimant appeared Pro se.

For Respondents Halpert and Company, Inc. ("Halpert and Company"), Michael Citron ("Citron") and Alan Halpert ("Halpert"): Mari-Anne Pisarri, Esq. of the law firm of Pickard & Djinis located in Washington, D.C.

CASE INFORMATION

Statement of Claim filed: June, 9, 1993.

Claimant's Submission Agreement signed on: June 10, 1993.

Joint Statement of Answer filed by Respondents Halpert and Company, Inc., Michael Citron, and Alan Halpert on: August 25, 1993.

Respondent Halpert and Company, Inc.'s Submission Agreement signed on: July 19, 1993.

Respondent Michael Citron's Submission Agreement signed on: July 19, 1993.

Respondent Alan Halpert's Submission Agreement signed on: July 19, 1993.

Joint Statement of Points and Authorities by Respondents signed on: June 13, 1994.

HEARING INFORMATION

Pre-hearing Date/ Session: June 1, 1994 - One Session

Hearing Dates/Sessions: June 13, 1993 - Two Sessions

Hearing Location: National Association of Security Dealers, Inc., offices located in New York City, New York.

CASE SUMMARY

Claimant alleged that he received by mail a W-9 Form on approximately December 23, 1992, requesting Claimant's signature for an account with Respondent Halpert and Company, at an old address from which he moved more than a month before; that after trying for more than two weeks and after leaving several messages, Claimant finally spoke with Respondent Citron; that Citron reluctantly told Claimant that his father, Norman Singer ("Norman"), had opened accounts for which he purchased municipal bonds in the name of Claimant and his two sisters; and that Citron claimed that Norman expressed that he did not want his children to know the accounts existed and that Citron asked Claimant to be discrete with this information in fear of losing Norman's business. It was also alleged by Claimant that during the same conversation, Claimant told Citron that he received the aforementioned December account statement at an old mailing address and to correct Claimant's address for further correspondence. Further, Claimant alleged that during the next several months Claimant received account statements from Halpert and Company at the new address showing that he owned 15,000 NYC Housing Development Corp., due 5/01/23.

Claimant then alleged that on March 20, 1993 Claimant received notice from Halpert that, on March 12, 1993, the municipal bonds in Claimant's account were delivered to Claimant by hand but Claimant never instructed Citron to deliver the bonds; that the bonds were in fact delivered to Norman upon his request; that on March 22, 1993 Claimant called Citron about the discrepancy; and that Citron claimed that Norman gave instructions to remove the bonds from the account and deliver them to him. Claimant also alleged that over the next week Claimant received confirmation that the bond was sold and two letters, dated March 25, 1993 and March 29, 1993, claiming that the original transaction had been canceled; that Claimant sent a certified letter on March 22, 1993 asking that "his property" be returned; and that on April 9, 1993, Claimant sent a certified letter to Alan Halpert, the president of Halpert and Company, making the same demand. Claimant further alleged that Halpert sent a letter on April 16, 1993 confirming the key events as alleged by Claimant and attributed the dispute to an obvious "misunderstanding". Finally, Claimant alleged that to this date, Claimant

has not received the bonds.

Respondents denied all allegations of wrongdoing and denied any liability to Claimant. Respondents Halpert and Company, Michael Citron, and Alan Halpert maintained that on approximately December 17, 1992, Norman Singer purchased 15 NYC Housing Development Corp. bonds from Halpert and Company for a total price of \$15,130.78; that on December 22, 1992, Norman sent Halpert and Company a check for these bonds; and that at the time of the purchase, Norman requested that the bonds be deposited in a new account which he opened in Claimant's name. Respondents further maintained that at Norman's request the bonds were delivered to him; that Claimant did not play any role in the purchase of the bonds or the opening of the account in which the bonds were placed; and that, as such, Claimant has no right, title, or interest in the bonds.

Further, Respondents maintained that this dispute is not a proper matter for NASD arbitration and should be dismissed for the following reasons: Claimant is not now and has never been a public customer of Halpert; Claimant does not have any other form of arbitration agreement with Halpert or any of the other Respondents in this matter; and Claimant did not suffer any damages as a result of Claimant's allegations. Therefore, Respondents conclude that the Statement of Claim fails to state a cause of action on which relief may be granted.

RELIEF REQUESTED

Based upon the forgoing, Claimant requested an award against Respondents for the following:

1. The cash value of the bonds as of March 12, 1993 -- approximately \$15,000;
2. Lost tax-free coupon interest -- \$431.25 as of May 1993;
3. Reimbursement of filing and hearing fees in the amount of \$520;
4. Reimbursement of out-of-pocket expenses;
5. Reimbursement of attorneys fees;
6. Punitive damages in the amount of \$32,000;
7. Full disciplinary action against Halpert and Company, Alan Halpert, and Michael Citron.

Respondents requested that the arbitration panel find in Respondents' favor as follows:

1. All claims as against Respondents be dismissed; .
2. Claimant's request for punitive damages, attorneys fees and costs be denied;
3. "Full disciplinary action" is not an appropriate form of relief in an arbitration proceeding, and therefore, should be denied.

OTHER ISSUES CONSIDERED AND DECIDED

At the hearing both parties addressed the main legal issue underlying this dispute: whether Norman Singer made a valid and irrevocable inter vivos gift to his son, Benjamin Singer. Claimant presented case law to assert his position that the very fact that these were "bearer" bonds purchased for an account in Claimant's name indicates that the three elements necessary to perfect an inter vivos gift were all present in this matter: intent (present), delivery, and relinquishment of control and dominion. Respondents submitted a brief asserting that there was no present intent. Respondents argued that Norman purchased the bonds expressly stating an intent to retain ownership and control over the bonds until an unspecified date even though he requested that the account be in Claimant's name. They further argued that there was actual delivery of the bonds to Norman and not the Claimant.

This panel finds that it has jurisdiction over Respondents, Halpert and Company, Inc., Michael Citron, and Alan Halpert, pursuant to Sections 1 and 12 of the Code of Arbitration Procedure and pursuant to the Form U-4 executed by Respondents Michael Citron and Alan Halpert.

The parties have agreed that the Award in this matter may be executed in counterpart copies to be simultaneously sent to each member of the panel for their signature.

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. Respondent Michael Citron be and hereby is liable and shall pay to the Claimant only to the extent of the commission received by Respondent Citron on the trade of 15 New York City Housing Development Corporation Bonds.
2. Respondent Halpert and Company be and hereby is liable and shall

pay to the Claimant the difference between \$15,000.00 and the commission received by Respondent Michael Citron on the trade of 15 New York City Housing Development Corporation Bonds.

3. Respondent Halpert and Company shall pay to the Claimant interest accrued to date at the legal rate of 9%;
4. All claims against Respondent Alan Halpert be and hereby are dismissed;
5. Claimant's request for punitive damages be and hereby is denied;
6. Claimant's request for attorneys' fees be and hereby is denied;
7. Respondent Halpert and Company be and hereby is liable and shall pay to the Claimant the sum of \$520.00 representing forum fees previously deposited with the NASD; and
8. All other claims be and hereby are dismissed.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed.

1 pre-hearing conference x \$300.00 = \$300.00
2 sessions X \$400 = \$800 minus hearing session deposit of 400 = net \$400 due.

1. Respondent Halpert and Company be and hereby is liable and shall pay to the NASD the sum of \$700.00 representing outstanding forum fees.

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

STATE OF New York

COUNTY OF New York

On this 24 day of June, 1994, before me personally appeared
Harry Harrison known to me to be the individual described in and
who executed the foregoing instrument and duly acknowledged to me that he/she
executed the same.

NANCY M. GAGAN
Notary Public, State of New York
No: 31-4992640
Qualified in New York County
Commission Expires February 24, 1996

Nancy M. Gagan

STATE OF

COUNTY OF

On this 27 day of June, 1994, before me personally appeared
Samuel Freeman known to me to be the individual described in and
who executed the foregoing instrument and duly acknowledged to me that he/she
executed the same.

Deborah A. DeJesus

DEBORAH A. DEJESUS
Notary Public, State of New York
No. 02DE5022979
Qualified in New York County
Commission Expires January 24, 1996

STATE OF

COUNTY OF

On this 29 day of June, 1994, before me personally appeared
Berton Seltzer known to me to be the individual described in and
who executed the foregoing instrument and duly acknowledged to me that he/she
executed the same.

Deborah A. DeJesus

DEBORAH A. DEJESUS
Notary Public, State of New York
No. 02DE5022979
Qualified in New York County
Commission Expires January 24, 1996

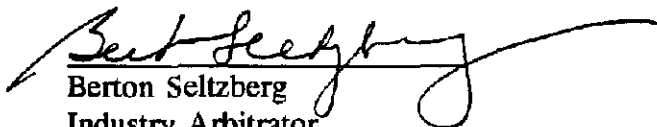
Concurring Arbitrators' Signatures
Name



Harvey Barrison
Public Arbitrator - Chairperson



Samuel H. Freeman
Public Arbitrator



Berton Seltzberg
Industry Arbitrator

Date of Decision: July 1, 1994