

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Robert W. Bowden

93-02743

Name of Respondent

First Hanover Securities, Inc.

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on July 13, 1993, Claimant Robert E. Bowden, who appeared Pro Se, alleged that he is the Vice President of Human Resources for Yamaichi International (America), Inc. ("YIA"), a broker/dealer and he is a non-registered employee whereby his name was given to Respondent First Hanover Securities, Inc. by a friend, as someone who might wish to participate in the April 15, 1993 public offering of units of The Producers Entertainment Group, at which time, Respondent was a market-maker for the offering and each unit consisted of two shares of common stock and one warrant. Claimant further alleged that these units are listed on NASDAQ and Respondent sent a prospectus to Claimant's home. Claimant contended that prior to April 15, 1993 he had a conversation with Mr. Mark Berg, a broker at Respondent, when opening his account whereby as part of this conversation, Claimant specifically told him that he was employed in the Human Resources Department of YIA and that he would need copies of all his account statements forwarded to YIA's Legal Department. Claimant further contended that on April 15, 1993, he purchased 800 units for \$6.00 per unit with a process fee of \$2.50 for a total net amount of \$4,802.50 and subsequently on May 26, 1993, the Legal Department of YIA sent a form to Respondent requesting that copies of all statements for his account be forwarded to their attention. Claimant asserted that on or about June 10, 1993 Mr. Dan Savery, Respondent's Director of Compliance, called YIA's Legal Department asking questions about Claimant's position at YIA and the status of his trade as per the Free Rider Withholding Rule whereby Claimant did not have any personal conversations with Respondent by and through Mr. Savery. Claimant further asserted that on June 16, 1993 he called Respondent, by and through Mr. Berg, to sell the 800 units for \$8.125 minus a processing fee of \$10.00 for a net amount of \$6,490.00, at which time, Respondent, by and through Mr. Berg, responded "done". Claimant further

alleged that on June 17, 1993 Respondent, by and through Mr. Savery, faxed a letter to YIA's Legal Department, which letter was backdated to June 15, 1993, canceling Claimant's trade of April 15, 1993 at which time, when confronted by a member of YIA's Legal Department as to what would be done with Claimant's profits, Respondent, by and through Mr. Savery, refused to answer. Claimant further contended that on June 18, 1993 Respondent, by and through Mr. Berg, called him to tell him that Mr. Savery was canceling both his trades, at which time, Claimant told Mr. Berg he disagreed, and that he wanted his account closed and the proceeds forwarded to him that day. Claimant further asserted that on July 1, 1993, he again notified Respondent to send the funds and subsequently on July 6, 1993 Claimant received a check in the amount of \$4,803.99 which is inclusive of interest. Claimant further contended that Respondent owes him the difference between the net amounts of his trades on April 15, 1993 and June 16, 1993.

Respondent First Hanover Securities, Inc., by and through their in-house counsel Theodore J. Burns, maintained that they admit that Claimant Robert W. Bowden purchased 800 units of The Producers Entertainment Group public ("TPEG") offering on April 15, 1993 at a total cost of \$4,802.50. Respondent further maintained that subsequent to his purchase, Respondent's Compliance Department received a letter dated May 26, 1993 from Reymond Lang, Vice President and Compliance Director of Yamaichi International (America), Inc. a broker/dealer requesting duplicate copies of Claimant's monthly statements and confirmations, at which time Respondent's Compliance Department became aware of Claimant's employment with Yamaichi International (America), Inc., a broker/dealer, and upon reviewing Claimant's monthly statements discovered the TPEG purchase. Respondent contended that to comply with the NASD rule against "free-riding and withholding", which prohibits a member from selling stock in a public offering which trades at a premium in the secondary market to any officer, director, general partner, employee or agent of the member or of any other broker/dealer, Respondent's Compliance Department made a decision to cancel the trade and return Claimant's money with interest.

RELIEF REQUESTED

Claimant Robert W. Bowden requested the sum of \$1,687.50 in actual damages.

Respondent First Hanover Securities, Inc. requested that an award be rendered in its favor.

AWARD

Pursuant to Section 10 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Securities Arbitrator, Michael E. Olney, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on July 9, 1993 and by the Respondent on September 24, 1993.

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. The claim of Claimant Robert W. Bowden against Respondent First Hanover Securities, Inc. is dismissed.
2. The parties shall bear their respective costs.
3. The \$50.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Robert W. Bowden shall be retained by the NASD, Inc.

AFFIRMATION

I, **MICHAEL E. OLNEY**, 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

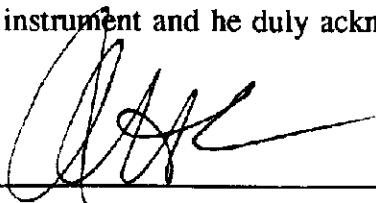
DATE OF DECISION: December 22, 1993

STATE OF: NEW YORK

SS:

COUNTY OF: NEW YORK

On this 14th day of December 1993, before me personally appeared Michael E. Olney Esq. to me known and known before me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same. MCO



ARTHUR H. SOBEL
Notary Public, State of New York
No. 30-375862
Qualified in Nassau County
Commission Expires Jan. 31, 1994