

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Jack Utsick

93-02810

Name of Respondents

Bruce Barber
Barber & Bronson Inc.

REPRESENTATION

For Claimant, Jack Utsick ("Utsick"): Russell L. Forkey, Esq. of Deerfield, Florida.

For Respondents, Bruce Barber ("Barber"), Barber & Bronson Inc. ("B & B"): Eric P. Littman, Esq. of Berley & Littman, P.A., Miami, Florida.

CASE INFORMATION

Statement of Claim filed: July 20, 1993.

Claimant's Submission Agreement signed on: July 15, 1993.

Statement of Joint Answer filed by Respondents on: September 7, 1993

Respondent, Barber and B & B's Submission Agreement signed on: August 2, 1993 by Bruce Barber personally and on behalf of B & B.

HEARING INFORMATION

Pre-Hearing Conference: 1 session on February 7, 1994.

On March 23, 24, and 25, 1994, in Fort Lauderdale, Florida, hearings lasting six (6) sessions were held.

CASE SUMMARY

Claimant alleged that Respondents did not follow written and oral instructions concerning limitations in the Claimants option account thereby causing losses to the principal in the Claimant's account.

Respondents alleged that no agreement was reached between the parties: that Claimant was a sophisticated trader who was in complete control of his account at all times and is therefore responsible for all losses. Respondents filed a counter claim against the Claimant alleging that he owed Respondent for a check written by the Claimant to cover trades which was returned for insufficient funds.

RELIEF REQUESTED

Claimant requested damages in the amount of \$200,000.00, cancellation of his debt balance, interest and costs of this proceeding.

Respondents requested dismissal of all claims; amounts owed as a debit balance to the Respondent of \$38,222.00, interest, treble damages, attorneys fees and costs.

OTHER ISSUES CONSIDERED & DECIDED

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 original(s) remain on file with the NASD.

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 Respondents are found not liable and therefore, all claims against them are hereby dismissed.
2. The Claimant is found liable for the debit balance in the account to the extent of \$11,000.00 and shall pay the B & B the amount of \$11,000.00.
3. The Respondents request for interest, treble damages, attorney's fees, and costs is hereby denied.
4. The Claimant's request for interest and costs is hereby denied.

OTHER COSTS

Other than as detailed below in Forum Fees, each party shall bear their own costs of this proceeding.

FORUM FEES

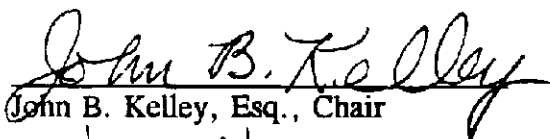
Pursuant to Section 43(c) of the Code of Arbitration Procedure, the arbitrators have assessed forum fees in the amount of \$4,800.00 (1 pre hearing conference x \$300.00 + 6 sessions x \$750.00 per session).

1. Claimant is hereby assessed \$2,400.00 for which the NASD shall retain the \$750.00 previously deposited in partial satisfaction thereof, leaving a balance due the NASD of \$1,650.00.
2. Respondent, B & B is hereby assessed \$2,400.00 for which the NASD shall retain the \$750.00 previously deposited in partial satisfaction thereof, leaving a balance due the NASD of \$1,650.00.
3. The NASD shall retain the 200.00 non refundable filing fee previously paid by the Claimant.
4. The NASD shall retain the \$500.00 non refundable filing fee previously paid by Respondent, B & B.

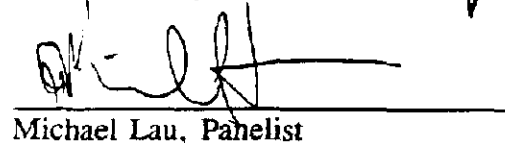
All fees are payable to the National Association of Securities Dealers, Inc.

Concurring Arbitrators' Signatures
Name

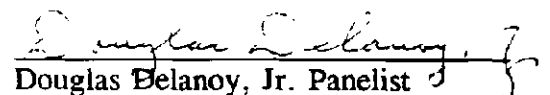
Public/Industry


John B. Kelley, Esq., Chair

Public


Michael Lau, Panelist

Public


Douglas Delaney, Jr. Panelist

Industry

Date of Decision: 4/28/94