

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Bruce Zion

93-03872

Name of Respondents

Rauscher, Pierce Refsnes, Inc.
Hanover Sterling & Co., Ltd.
Darren Shasho

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on September 27, 1993, Claimant Bruce Zion, through his counsel Howard S. Eilen, Esq., of Lehman & Eilen, Uniondale, N.Y., alleged that Respondent Darren Shasho, of Respondent firm Hanover Sterling & Co., Ltd., solicited him to purchase 500 units of Mister Jay Fashions International stock. The Claimant further alleged that, although he sent a check to cover the transaction and Respondent Darren Shasho, confirmed receipt of it, he later received a telegram from Respondent Rauscher, Pierce Refsnes, Inc., advising him payment was not received. The Claimant also alleged that he immediately contacted the Respondents and was advised to issue a replacement check, which he did. Claimant Bruce Zion, contended that he was assured his account would not be liquidated, but despite this assurance his Mister Jay Securities were liquidated without notice. Claimant Bruce Zion, asserted that as a direct consequence of the Respondents' actions, he has suffered damages for which the Respondents' should be held liable.

Respondent Rauscher, Pierce Refsnes, Inc., through its in-house counsel, James T. Ritt, Esq., maintained that it issued a Mail-Gram to Claimant, advising him that if payment in-full was not received by March 9, 1993, it would proceed with liquidation of the securities; and further the Claimant indicated that the check was not sent until March 9, 1993, which made it impossible for the check to be received on that day. The Respondent contended that it sold out the position in accordance with Regulation T and should not be held liable in this matter.

In a cross-claim against Respondents Hanover Sterling & Co., Ltd. and Darren Shasho, Rauscher, Pierce Refsnes, Inc., contended that it was in its sole discretion as to how to handle the non-payment of a transaction, and that any award rendered against it should be assessed against Respondents Hanover Sterling & Co., Ltd. and Darren Shasho.

Respondents Hanover Sterling & Co., Ltd. and Darren Shasho, through their outside counsel, M. David Sayid, Esq., of Sayid and Associates, maintained that Respondent Shasho never confirmed receipt of a check, nor would he have called Claimant if payment was received. Respondents also maintained that its clearing broker sent notice to Claimant that it would sell his stock if the check was not received, and therefore, the position was sold.

RELIEF REQUESTED

Claimant Bruce Zion, requested \$5,000.00 in actual damages, plus interest from February 14, 1993, costs and attorney's fees.

Respondent Rauscher, Pierce Refsnes, Inc., requested that the claims of the Claimant be dismissed or that any award rendered against it be assessed against Respondents Hanover Sterling & Co., Ltd. and Darren Shasho.

Respondents Hanover Sterling & Co., Ltd. and Darren Shasho, requested that the claims of the Claimant be dismissed.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Arnold Limsky, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on August 13, 1994, by the Respondent Hanover Sterling & Co., Ltd., on February 3, 1994, the Respondent Rauscher, Pierce Refsnes, Inc. on December 22, 1993, but not signed by Respondent Darren Shasho as required by Section 12 and 13 of the NASD Code of Arbitration Procedure.

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 claims of the Claimant Bruce Zion, against the Respondents Hanover Sterling & Co., Ltd., Rauscher, Pierce Refsnes, Inc. and Darren Shasho, are dismissed in their entirety.
2. The cross-claims of the Respondent Rauscher, Pierce Refsnes, Inc., against the Respondents Hanover Sterling & Co., Ltd. and Darren Shasho, are dismissed in their entirety.
3. The parties shall bear their respective costs.
4. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Bruce Zion, shall be retained by the NASD, Inc.
5. The \$575.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Respondent Rauscher, Pierce Refsnes, Inc., shall be retained by the NASD, Inc.

Affirmation

STATE OF

New Jersey

} SS:
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COUNTY OF

Monmouth

I, Arnold Linsky, do hereby affirm upon my oath
as arbitrator that I am the individual described in and who executed this instrument,
which is my oath and award.


Signature of Arbitrator

A-10970

DATE OF DECISION:

JULY 28, 1995