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N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Hamilton Investments, Inc.

93-04427

Name of Respondent

Sherman Waller

REPRESENTATION OF PARTIES

Claimant Hamilton Investments, Inc. ("Hamilton") was represented at the hearing by Michael B. Elman, Esq., Chicago, Illinois.

Respondent Sherman Waller ("Waller") was not present at the hearing. (See Other Issues).

CASE INFORMATION

Statement of Claim was filed by Claimant Hamilton on November 15, 1993. The Submission Agreement was signed by Robert A. Bade, Vice President and Director of Compliance, on behalf of Hamilton Investments on October 18, 1993.

Respondent Waller did not file a Statement of Answer. (See Other Issues).

HEARING INFORMATION

The hearing was held on September 22, 1994 in Chicago, Illinois for a total of one (1) hearing session.

CASE SUMMARY

Claimant Hamilton alleged that Respondent Waller has a margin account with Hamilton which has a debit balance of \$6,534.10. Hamilton further alleged that they have made demand upon Waller for payment but he refuses to pay and is therefore in breach of his account agreement. Hamilton asserts that Waller is liable for the debit balance, plus interest, as required by the terms of the margin account agreement entered into by Waller.

Respondent Waller did not file an answer to these allegations.

RELIEF REQUESTED

Claimant requested damages in the amount of \$6,534.10 plus interest at the rate of one percent (1%) over the prime rate per annum from

NASD AWARD 93-04427
PAGE 2 OF 3

August 28, 1993, plus reasonable attorney fees, expenses and costs.

OTHER ISSUES CONSIDERED AND DECIDED

Claimant Hamilton effected statutory service of the Statement of Claim against Respondent Waller pursuant to §415.2 of the California Code of Civil Procedure. Upon review of the file and the representations made by the Claimant, the panel has determined that there was proper service of the Claim and hearing notice on Respondent Waller pursuant to §13 and §25 of the NASD Code of Arbitration Procedure (the "Code"). The panel determined that Respondent Waller had received due notice of the hearing as required under §26 of the Code and that arbitration of the matter would proceed pursuant to §29 of the Code.

Respondent Waller did not file with the NASD a properly executed submission to arbitration but is required to submit to arbitration pursuant to §12 of the NASD Code of Arbitration Procedure (the "Code"), and is bound by the determination of the arbitration panel on all issues submitted.

AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent Waller shall be, and hereby is liable for, and shall pay to Claimant, Hamilton, the sum of Six Thousand, Five Hundred Thirty Four Dollars and Ten Cents (\$6,534.10);
2. Respondent Waller shall be and hereby is liable for, and shall pay to Claimant, Hamilton, interest at the rate of one percent (1%) over the prime rate per annum on the outstanding unpaid debit balance from August 28, 1993 until such debit is paid in full; such interest to date arbitrator signed the award amounts to \$532.55;
3. Respondent Waller shall be and hereby is liable for and shall pay to the Claimant Hamilton, attorney fees in the amount of One Thousand Sixty Two Dollars and Fifty Cents (\$1,062.50);
4. Any relief not specifically provided for herein is denied.

9502188

NASD AWARD 93-04427
PAGE 3 OF 3

FORUM FEES

Pursuant to §43(c) of the NASD Code of Arbitration Procedure, the following forum fees are assessed:

1 hearing session x \$300 = \$300.

Pursuant to §43(c) of the Code, the NASD shall retain the non-refundable filing fee in the amount of \$500, and the hearing session deposit in the amount of \$300. The panel has ordered that Respondent Waller reimburse Claimant Hamilton the sum of \$800 for its costs previously deposited with the NASD.

By The Arbitration Panel:

Dated:

11/9/94

s/s Donald E. Casey, Esq.
Donald E. Casey, Esq., Presiding
Public Arbitrator

Date Award Served By The NASD: 12/7/94