

NASD REGULATION AWARD AFTER REMAND

In the Matter of the Arbitration Between

Name of Claimant

Raymond M. Weinstein

93-04713

Name of Respondents

Brokers Exchange, Inc.
Anna Marie Rumsey
Donald B. Harris
Southern Financial Group, Inc.

REPRESENTATION

For Claimant Raymond M. Weinstein ("claimant") appeared Steven Kapustin, Esq., of Heller, Kapustin Gershman & Vogel located in Blue Bell, Pennsylvania.

For Respondent Brokers Exchange, Inc. ("Brokers Exchange"), appeared Donald B. Harris, in-house counsel for Brokers Exchange.

Respondent Anna Marie Rumsey ("Rumsey") appeared pro se.

Respondent Donald B. Harris ("Harris") appeared pro se.

For Respondent Southern Financial Group, Inc. ("Southern Financial"), appeared Barbara J. Mastin, Esq., with law offices in Decatur, Georgia.

CASE INFORMATION

Statement of Claim filed: November 12, 1993.

Amended Statement of Claim was filed on: August 22, 1996.

Claimant's Submission Agreement signed on: November 5, 1993.

Statement of Answer was filed by Brokers Exchange on: January 26, 1994.

Brokers Exchange's Submission Agreement was signed on: January 26, 1994.

Statement of Answer was filed by Rumsey on: January 26, 1994.

Answer to Amended Statement of Claim was filed by Rumsey on: November 12, 1996.

Rumsey's Submission Agreement was signed on: January 26, 1994.

Harris did not file a Statement of Answer or a properly executed Submission Agreement.

Southern Financial filed a Statement of Answer on: September 6, 1996.

Southern Financial did not file a properly executed Submission Agreement.

HEARING INFORMATION

Pre-Hearing Conferences:	August 9, 1996	-	One Session
	November 14, 1996	-	One Session
	February 24, 1997	-	One Session
	April 24, 1997	-	One Session
Hearing Dates/Sessions:	May 8, 1997	-	Two Sessions
	May 9, 1997	-	Two Sessions

The hearings were conducted at the offices of NASD Regulation located in Atlanta, Georgia.

CASE SUMMARY

Claimant contended that, although Rumsey was not legally registered to sell securities in the state of Georgia until July 1992, Rumsey offered and sold securities to him as an agent for Brokers Exchange in December 1991. Claimant alleged that Brokers Exchange permitted Rumsey, an unregistered sales representative, to offer and sell securities to him and failed to exercise diligent supervision over the securities activities of Rumsey. Claimant maintained that Harris, as the sole shareholder of Brokers Exchange and the recipient of 49% of the stock of Southern Financial for Brokers Exchange accounts, was either the alter ego or successor of Brokers Exchange. In addition, claimant contended that, as of January 1, 1995, Southern Financial assumed the outstanding brokerage accounts of Brokers Exchange and, therefore, assumed any liability of Brokers Exchange.

Rumsey contended that claimant's claims of non-registration were previously presented to and acted upon by the Georgia Securities Commission. Rumsey maintained that, in accordance with principles of collateral estoppel, the arbitrators were precluded from adjudicating the amended statement of claim. Rumsey also contended that her contact with claimant in Georgia was minimal because about 95-99% of claimant's trades were place from his job located in South Carolina.

Southern Financial contended that the arbitration panel did not authorize claimant to include additional parties in his amended statement of claim. Southern Financial, therefore, maintained that it was not properly named as a party to this action.

RELIEF REQUESTED

Claimant requested actual damages in the amount of \$81,736.00, plus interest from July 1, 1992

to the present, the costs of filing this action and the companion action filed in the United States District Court for the Northern District of Georgia, and attorney's fees in excess of \$26,000.00.

Rumsey requested that claimant's claim be dismissed in its entirety, and that all legal fees and related costs be borne by claimant.

Southern Financial requested that the arbitration panel strike any reference to it from the statement of claim, and that all claims against it be dismissed with prejudice. In addition, Southern Financial requested that it be awarded all costs and attorney's fees.

OTHER ISSUES CONSIDERED AND 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 originals remain on file with the NASD.

Pursuant to the Federal Arbitration Act, claimant sought to vacate the arbitrator's decision and award rendered in this matter on December 7, 1994. On December 14, 1995, the United States District Court for the Northern District of Georgia vacated the arbitrator's award insofar as the arbitrator refused to entertain claimant's Georgia law claims of broker non-registration and remanded this matter for the arbitrator. In addition, the order confirmed the arbitrator's decision and award as to the claimant's other claims.

After due deliberation, the panel determined not to accept claimant's Amended Statement of Claim and, therefore, respondents Southern Financial Group, Inc. and Donald B. Harris were not properly named respondents in the above-referenced action. Therefore, all claims against Southern Financial Group, Inc. and Donald B. Harris are hereby dismissed without prejudice.

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. All claims against Brokers Exchange and Rumsey are hereby denied in their entirety.
2. All other requests for relief are hereby denied.

FORUM FEES

Pursuant to Rule 10332(c) of the Code of Arbitration Procedure, the arbitrators have assessed the following forum fees, in addition to those previously assessed in the Award rendered in this matter on December 7, 1994:

4 pre-hearing conferences x \$300.00	=	\$1,200.00
4 hearing sessions x \$300.00	=	\$1,200.00

1. Claimant be and hereby is liable for and shall pay to NASD Regulation, Inc. the sum of \$1,200.00, representing one-half of the total amount of forum fees assessed in this matter.
2. Respondents Brokers Exchange and Rumsey be and hereby are jointly and severally liable for and shall pay to NASD Regulation, Inc. the sum of \$1,200.00, representing one-half of the total amount of forum fees assessed.

Arbitrators' Signatures



Judy C. Olin, Esq.
Chairperson Public Arbitrator

Marion Smith, II, Esq.
Public Arbitrator

Francis L. Wolff
Industry Arbitrator

Date of Decision: October 29, 1997

Arbitrators' Signatures

Judy C. Cohn, Esq.
Chairperson-Public Arbitrator



Marion Smith, II, Esq.
Public Arbitrator

Frances L. Wolff
Industry Arbitrator

Date of Decision: October 29, 1997

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Frances L. Wolff
Industry Arbitrator

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