

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Luis R. Alonzo

93-05002

Name of Respondents

Chemical Securities, Inc.

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on December 2, 1993, Claimant Luis R. Alonzo, who appeared Pro Se, alleged that Respondent Chemical Securities, Inc. failed to execute his order to sell 912 shares of Chemical Banking Corporation common stock on both October 13 and 14, 1993. Claimant further alleged that he made several efforts to place this stock in his account with Respondent before October 13, 1994 so the sale could be made, but due to the negligence of Respondent this did not happen. In Claimant's response to Respondent's Answer, Claimant contended that it was not until December 8, 1993 that an employee of Respondent sent him a letter notifying him that the stock in question was placed in his account. As a result of the above, Claimant contended that the Respondent should be held liable in this matter.

Respondent Chemical Securities, Inc., through Respondent's in-house counsel Arthur Korzec, Esq., New York, New York, maintained that in June, 1993, Claimant delivered the shares in question to Respondent, intending to deposit the shares in his account with Respondent. Respondent further maintained that since the shares were in the name of Chemical Bank for Claimant's benefit, a corporate resolution authorizing the change in ownership was necessary before the shares could be placed in the account at Respondent, so the shares were returned to Claimant. Respondent contended that due to operational difficulties in Chemical Bank's pension department, the shares were not transferred into a form of ownership that enabled their deposit into Claimant's account with Respondent until sometime after October 15, 1993. Respondent further contended that it had no control over Chemical Bank's pension department, and that the trades

Claimant alleged he requested of Respondent could not be taken because the shares were not yet in Claimant's account with Respondent. Respondent maintained that Claimant failed to mitigate his alleged damages, making Claimant's damage request wholly unsupportable. Respondent maintained that due to a rebound in the price of Chemical Bank's stock as of the initiation of this arbitration proceeding, Claimant's purported losses were no more than \$4,500.00. Respondent contended that Claimant should receive no award unless and until Claimant has sold his shares and actually suffered a real, not hypothetical, monetary loss. Respondent further maintained that an investigation of its phone records indicates that Claimant did not make the sell orders on October 13 and 14, 1993 at the times he alleged he did. Due to the above, Respondent contended that it should not be held liable in this matter.

RELIEF REQUESTED

Claimant Luis R. Alonzo requested \$9,200.00 in actual damages, plus interest and \$160.00 in costs.

Respondent Chemical Securities, Inc. requested that Claimant's Statement of Claim be dismissed in its entirety.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single public arbitrator, Howard B. Sirota, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on November 30, 1993 and by the Respondent on February 4, 1994.

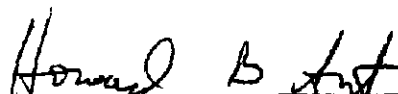
And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Respondent Chemical Securities, Inc. is liable and shall pay to Claimant Luis R. Alonzo \$4,500.00 in actual damages.
2. The Claimant's request for interest is denied.
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 shall be retained by the NASD, Inc.

Page Three
Award 93-05002

AFFIRMATION

I, **HOWARD B. SIROTA, ESQ.**, do hereby affirm upon my oath of 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: June 20, 1994

STATE OF New York ss.:

COUNTY OF New York

On this 14th day of June 1944, before me personally appeared 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.

Carol J. Battillo

CAROL J. BATTILLO
Notary Public, State of New York
No. 43-4882940
Qualified in Richmond County
Commission Expires March 9, 1946