

NASD AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Name of Claimants

Jamie Tsutsui and Michael Casto

and

93-05275

Name of Respondents

Castle Securities Corp.

Michael T. Studer

George R. Hebert

REPRESENTATION OF PARTIES

Jamie Tsutsui and Michael Casto ("Claimants") appeared *pro se*.

Castle Securities Corp., Michael T. Studer and George R. Hebert ("Respondents") were represented by Charles M. O'Rourke, Esq., Hempstead, New York.

CASE INFORMATION

The Statement of Claim was filed on or about December 22, 1993. Submission Agreement of Claimants Jamie Tsutsui and Michael Casto was signed on November 17, 1993.

Statement of Answer and Counterclaim was filed by Respondents Castle Securities Corp., Michael T. Studer and George R. Hebert on or about April 11, 1994. Submission Agreement of Respondent Castle Securities, Inc. was signed on April 6, 1994 by Michael T. Studer. Submission Agreement of Respondent Michael T. Studer was signed on April 6, 1994. Submission Agreement of Respondent George R. Hebert was signed on April 6, 1994.

HEARING INFORMATION

The hearing was held on Tuesday, December 6, 1994 in Denver, Colorado for a total of one (1) session.

CASE SUMMARY

Claimants alleged that they entered into an agreement with Respondents to operate as an Aurora, Colorado branch of Castle Securities Corporation, in the sale of securities. It was further alleged that on or about August 24, 1992, Castle Securities Corporation temporarily ceased operations and as a result, Claimants have not been paid monies owed. Claimants also alleged that Respondents did not furnish them with daily inventory positions, daily firm trading reports, or monthly commission reports.

Respondents denied the allegations set forth in the Statement of Claim and stated that the Claimants executed agreements which stated that they agreed never to request compensation from Castle Securities Corporation. Respondents further stated that the Claimants were part of a group which did business as a group and that the group was paid an aggregate sum which was to be allocated by the group among themselves outside the direction and control of Respondents. In the Counterclaim asserted in this matter, Respondents alleged that Jamie Tsutsui and Castle Securities Corporation were named as Respondents in an unrelated arbitration matter. Respondents state that as a result of an indemnification agreement, Jamie Tsutsui must indemnify, Castle Securities Corp.

RELIEF REQUESTED

Claimants requested an award in the approximate amount of \$26,000 and costs.

Respondents requested that the claims asserted against them be dismissed and that they be awarded damages as set forth at the hearing of this matter.

OTHER ISSUES CONSIDERED & DECIDED

Castle Holding Corp. was originally named as a Respondent in this matter. Castle Holding Corp. did not voluntarily submit to arbitration, and not being a member of the NASD is not required to submit to the jurisdiction of this arbitration panel. Therefore, all claims asserted against Castle Holding Corp. are dismissed without prejudice.

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. Respondent Castle Securities Corporation shall be and hereby is liable for and shall pay to the Claimants Jamie Tsutsui and Michael Casto d/b/a J & M Venture Capital the sum of Four thousand one hundred fifty six dollars and forty four cents (\$4,156.44).
2. The claims asserted against Respondents Michael T. Studer and George R. Hebert shall be and hereby are dismissed in their entirety.
3. Each party shall bear its own costs, expenses and attorneys' fees, if any, incurred in this matter.
4. All requested relief not specifically granted herein shall be and hereby is denied.

FORUM FEES


Forum fees are calculated at the rate of \$600 per hearing session and \$300 for each prehearing conference, if any. There was one (1) session x \$600 = \$600 in forum fees. Pursuant to §44(b) a hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with an arbitrator, which lasts four (4) hours or less.

Pursuant to §44(c) of the NASD Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. ("NASD") shall retain the non-refundable filing fee in the amount of \$500, and shall retain as forum fees \$300 of the hearing session deposit in the amount of \$600 previously deposited with the NASD by the Claimants. The balance of \$300 shall be refunded to the Claimants. Pursuant to §44(c) of the NASD Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. ("NASD") shall retain the non-refundable filing fee in the amount of \$500, and shall retain as forum fees \$300 of the hearing session deposit in the amount of \$600 previously deposited with the NASD by the Respondents. The balance of \$300 shall be refunded to the Respondents. Fees are payable to the National Association of Securities Dealers, Inc.


Dated:


John J. King, Jr., Esq.
Industry Arbitrator, Presiding Chair

12-6-94


William A. Conklin
Industry Arbitrator

12-6-94


Eugene M. Osman
Industry Arbitrator

12-6-94