

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Kenneth A. Mannino

95-00043

Name of Respondents

Hamilton Investments, Inc.;
Robert A. Ebersole;
House Hold International, Inc.

REPRESENTATION

For Claimant: Kenneth A. Mannino ("Mannino") was represented by David L. Martenson, Esq. of Martenson, Greenlee & Kreitlow, located in Rockford, Illinois.

For Respondents: Hamilton Investments, Inc. ("Hamilton") and Robert A. Ebersole ("Ebersole") were represented by Rosemarie Guadnolo, Esq. of Horvath & Lieber, P.C., located in Chicago, Illinois.

CASE INFORMATION

Statement of Claim filed: January 3, 1995.

Claimant's Submission Agreement signed on: December 28, 1994.

Statement of Answer filed by Respondents Hamilton and Ebersole on: March 23, 1995.

Respondent Hamilton's Submission Agreement signed on: March 23, 1995 by Allison Shank, Secretary, Hamilton Investments, Inc.

Respondent Ebersole's Submission Agreement signed on: March 23, 1995.

HEARING INFORMATION

Pre-Hearing Conference: None Held.

Hearing Dates/Sessions: January 22, 1996 for Three (3) sessions.

Hearing Location: Chicago, Illinois.

CASE SUMMARY

Claimant alleged that Respondents made material misrepresentations in order to induce Mannino to leave his employment with Shearson. Mannino specifically alleged that:

1. Because he had \$82,000.00 worth of accrued benefits with Shearson, Respondents promised him the equivalent of \$82,000.00 of Household International stock options. Respondents failed to deliver these options; and
2. Mannino was promised 10 years of employment with Hamilton and would be vested in its retirement plan. However, Household sold the business of Hamilton Investment when Mannino had four years in the plan and five was required for vesting. This claim was only alleged against Household because it was the provider of the plan.

Respondents Hamilton and Ebersole denied the material allegations of the Statement of Claim, alleging that it was discretionary with Hamilton's management to allow certain employees to participate in options on Household stock, but Mannino was not among these employees.

RELIEF REQUESTED

Claimant requested entry of an award against Respondents for \$212,439.00 for failure to deliver the stock options and that Household be required to pay the benefits as provided by the retirement plan formula.

Respondents requested that the claims be dismissed and denied in the entirety.

OTHER ISSUES CONSIDERED & DECIDED

Respondent Household Bank International, Inc. was not a member firm and declined to voluntarily submit to arbitration.

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.

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 Hamilton Investments, Inc. is liable for and shall pay to Claimant Kenneth A. Mannino the sum of \$50,000.00 as actual damages;
2. The claims against Respondent Robert Ebersole are dismissed with prejudice and denied in their entirety; and
3. The parties shall bear their own costs of arbitration, including attorneys' fees, except for those specifically enumerated herein.

OTHER COSTS

Respondent Hamilton Investments, Inc. is liable for and shall pay to the NASD the sum of \$350.00 as the surcharge required by Section 45 of the NASD Code of Arbitration Procedure.

FORUM FEES

Pursuant to Section 44(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed: Three (3) hearing sessions x \$750.00 per hearing session = \$2,250.00. The National Association of Securities Dealers, Inc. shall retain the \$500.00 non-refundable claim filing fee and refund the \$750.00 hearing session deposit previously deposited by the Claimant, Kenneth A. Mannino. Respondent Hamilton Investments, Inc. is liable for and shall pay to the NASD the sum of \$2,250.00 as forum fees. Fees are payable to the National Association of Securities Dealers, Inc.

Concurring Arbitrators' Signatures

Name

Date

/s/ James E. Green, Esq.

May 7, 1996

James E. Green, Esq.

Chairperson

Industry Arbitrator

/s/ Robert E. Waite

May 7, 1996

Robert E. Waite

Industry Arbitrator

/s/ John L. Bodolay

May 7, 1996

John L. Bodolay

Industry Arbitrator

For NASD Use Only/Date of Decision: May 8, 1996