

NASD AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Name of Claimant

Kemper Securities, Inc.

and

95-00832

Name of Respondent

James Noryian

REPRESENTATION OF PARTIES

Kemper Securities, Inc. ("Claimant") was represented by Renan I. Sugarman, Esq. of Everen Securities, Inc. (f/k/a Kemper Securities, Inc.) located in Chicago, IL.

James Noryian ("Respondent") did not file any submissions and did not appear at the hearing.

CASE INFORMATION

The Statement of Claim was filed on or about March 7, 1995.

The Submission Agreement of Claimant, Kemper Securities, Inc. was signed on February 13, 1995 by Renan I. Sugarman, Esq., Vice President and Senior Attorney.

HEARING INFORMATION

The hearing was held on February 20, 1996 in Houston, TX before three arbitrators for a total of one (1) session.

CASE SUMMARY

In the Statement of Claim, Kemper Securities, Inc. ("Kemper") alleged that James Noryian ("Noryian") owed Claimant a sum for an outstanding unsecured debit balance in his option/margin account. Noryian allegedly opened the account at Kemper on or about July 15, 1994 by signing a new account form and an option/margin agreement. According to the Claimant, Noryian made certain unsolicited OEX trades in his account on or about August 19, 1994. Kemper contended that since Noryian was notified of a margin call in the amount of \$37,000.00 on August 21, 1995, Noryian sent a check in that amount to Kemper; however, Noryian made the check out in a manner

so that it could not be deposited. Kemper allegedly made numerous attempts to contact the Respondent yet by the time Noryian was contacted, the positions had continued to go against the Respondent increasing the margin call to \$58,000.00. As alleged, Kemper received a check from Noryian for \$58,000.00 yet the check was returned by the bank for insufficient funds. When Respondent allegedly failed to meet the margin call, Kemper liquidated the positions leaving an unsecured debit balance of \$59,511.42. Despite demand, Noryian has failed to satisfy the debit and continued to avoid attempts to contact him.

James Noryian did not file a Statement of Answer.

RELIEF REQUESTED

Claimant requested an award in the amount of \$59,511.42 plus interest, costs and attorneys' fees.

OTHER ISSUES CONSIDERED & DECIDED

Upon review of the file and the representations made by/on behalf of the Claimant, the panel determined that Respondent, James Noryian had been properly served with the Statement of Claim pursuant to Section 13 and Section 25 of the NASD Code of Arbitration Procedure (the "Code"). The panel also determined that Respondent, James Noryian had received due notice of the hearing as required under Section 26 of the Code and that arbitration of the matter would proceed pursuant to Section 29 of the Code.

Respondent, James Noryian did not file with the NASD a properly executed submission to arbitration but is required to submit to arbitration pursuant to Section 12 of the Code.

The parties present at the hearing 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, James Noryian is hereby liable for and shall pay to the Claimant, Kemper Securities, Inc. the sum of \$68,083.94 in actual damages;
2. Respondent, James Noryian is hereby liable for and shall pay to the Claimant, Kemper Securities, Inc. the sum of \$2,316.00 for costs of arbitration;

3. Respondent, James Noryian is hereby liable for and shall pay to the Claimant, Kemper Securities, Inc. the amount of \$2,156.25 in attorneys' fees. In determining to award attorneys' fees, the arbitrators considered the legal authority provided by Kemper Securities, Inc. including the Texas Civil Practice & Remedies Code 38.001-.002 and Article 3 of the Uniform Commercial Code,
4. All other relief not specifically granted is hereby denied in its entirety; and
5. The parties shall bear all costs except for those specifically enumerated herein.

FORUM FEES

Forum fees are calculated at the rate of \$600.00 per hearing session. There was one (1) hearing session x \$600.00 = \$600.00 in forum fees. Pursuant to Section 43(b) of the Code, 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 Section 43(c) of the Code, the National Association of Securities Dealers, Inc. ("NASD") shall retain the non-refundable filing fee in the amount of \$500.00, the surcharge in the amount of \$200.00 imposed pursuant to Section 45 and shall retain as forum fees the hearing session deposit in the amount of \$600.00 previously deposited with the NASD by the Claimant. Respondent, James Noryian is hereby liable for and shall pay to the Claimant, Kemper Securities, Inc. the sum of \$1,100.00 as reimbursement. **Fees are payable to the National Association of Securities Dealers, Inc.**

Signed:

Dated:

J. Randall Henderson, Esq.
J. Randall Henderson, Esq.
Public Arbitrator, Presiding Chair

April 3, 1996

Leonard S. Alpert
Leonard S. Alpert
Public Arbitrator, Panelist

April 9, 1996

Christine E. Monical, Esq.
Christine E. Monical, Esq.
Industry Arbitrator, Panelist

April 3, 1996

Date served by the NASD: April 15, 1996