

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Max Cohen

95-01351

Name of Respondents

Ron Shaya
M.L. Stern & Co., Inc.

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on March 17, 1995 Claimant Max Cohen, through his representative under a general power of attorney, Stuart Cohen, alleged that Respondents Ron Shaya ("Shaya"), and M.L. Stern & Co., Inc. ("MLS"), failed to execute an order to sell a RJR Nabisco Bond ("Bond") located in his GT Global Money Market Account ("Account") located at MLS. Claimant further alleged that the day after he purchased the Bond, he told Shaya to sell it. Claimant contended that Shaya agreed to sell the Bond and also told him to deposit enough funds to cover the purchase. Claimant further contended that after he deposited the money, Shaya called and informed him that the transaction had been done and that he had a check for the proceeds of liquidating the Account. Claimant alleged that he later learned that the transaction was not completed and that he once again asked Shaya to sell the Bond. Claimant further alleged that Shaya did not sell the Bond upon the second request and that it was not sold until after it had lost considerable value. Claimant contended that as a result of the above, the Respondents should be held liable.

Respondents M.L. Stern & Co., Inc. and Ron Shaya, through their representative and in-house counsel, James D. Portman, Esq., located in Beverly Hills, CA, maintained that Claimant told Shaya to sell the Bond and that he complied with the instruction immediately. Respondents further maintained that after the Claimant's purchase the price of the Bond began fluctuating downward. Respondent Shaya contended that he advised Claimant not to sell the Bond, because it was a long term investment and that market fluctuations were to be expected. Respondent Shaya further contended that the Claimant was unwilling to take a loss on the Bond and waited until several weeks after purchase to give the sell order. Respondents maintained that Claimant continued doing business with Shaya which is not reconcilable with the Claimant's allegations against Shaya. Respondents further maintained that as a result of the above, they should not be held liable.

RELIEF REQUESTED

Claimant Max Cohen, requested \$10,000.00 in actual damages.

Respondents M.L. Stern & Co., Inc. and Ron Shaya, requested that the claims of the Claimant be dismissed.

AWARD

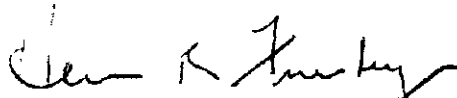
Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Herman R. Friedberg, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant Max Cohen's representative, Stuart Cohen, under a general power of attorney, on March 10, 1995, and by the Respondent M.L. Stern & Co., Inc., on August 8, 1995, and by Respondent Ron Shaya, on August 14, 1995.

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. The claims of the Claimant Max Cohen, against Respondents M.L. Stern & Co., Inc. and Ron Shaya, are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. All other relief requests are denied.
4. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Max Cohen, shall be retained by the NASD, Inc. The Respondents M.L. Stern & Co., Inc. and Ron Shaya, are jointly and severally liable and shall pay to the Claimant Max Cohen, \$75.00 as one-half reimbursement of the filing fee.

AFFIRMATION

I, HERMAN R. FRIEDBERG, ESQ., do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.



Herman R. Friedberg, Esq.

DATE OF DECISION: October 30, 1995