

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Alexander Hillman

95-01788

Name of Respondents

Hanover, Sterling & Co., Ltd.
Michael Orlino

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on April 11, 1995 Claimant Alexander Hillman ("Claimant"), who appeared Pro Se, alleged that Respondent Hanover Sterling & Co., Ltd. ("HSLC"), through its account executive, Respondent Michael Orlino ("Orlino"), strongly recommended that he purchase 1,000 shares of American Toys Common Stock ("ATOY") at \$12.50 per share which he agreed to do. Claimant further alleged that Respondent Orlino did not advise Claimant that American Toys went public at \$5.00 a unit, and included the common stock and the warrants, and further that Respondent Orlino advised him that ATOY would be receiving a substantial dividend. Claimant contended he also asked Respondent Orlino to send him a copy of the IPO prospectus, but he failed to do so. Claimant further contended that Orlino made an unauthorized trade when he purchased the ATOY warrants for his account, after Claimant gave instructions to first sell the ATOY common stock, and use the funds from the sale to cover the purchase. Claimant alleged that he was overcharged on commissions, and it was never corrected in his account. Claimant Alexander Hillman asserted that he has suffered damages due to the wrongdoing of the Respondents, for which they should be held liable.

Respondent Michael Orlino, who appeared Pro Se, maintained that Claimant did purchase stock from HSLC but that it was explained to Claimant that ATOY went public at \$5.00, and further maintained that had Claimant wanted a prospectus he would have sent him one. Respondent Orlino also maintained that at no time did he state ATOY was about to receive a dividend, and in addition, Claimant authorized the purchase of the ATOY warrants and the selling of the ATOY common to cover the trade. Respondent Orlino asserted that there was a \$2,500.00 debit in Claimant's account, which was debited from his pay, because Claimant did not send the funds in time. Respondent Orlino contended that Claimant is complaining because Hanover Sterling was put out of business, and that he has committed no wrongdoing in this matter.

Respondent Hanover Sterling & Co. Ltd. failed to file a Statement of Answer to the Statement of Claim.

RELIEF REQUESTED

Claimant Alexander Hillman, requested \$10,000.00 in actual damages.

Respondent Michael Orlino, requested that the claims of the Claimant be dismissed.

Respondent Hanover Sterling & Co., Ltd. failed to file an Answer to the Statement of Claim.

OTHER ISSUES CONSIDERED AND DECIDED

In accordance with section 13 of the NASD Code of Arbitration Procedure, the Respondent Hanover Sterling & Co., Ltd. was served by regular mail and given an opportunity to respond, which it failed to do. In addition, an overdue answer notice and a notice of the identity of the Arbitrator were sent via certified mail and were returned "refused".

Pursuant to the By-laws of the NASD, the Arbitrator determined that Respondent Hanover Sterling & Co., Ltd. had notice of the claim, and was required to submit to this arbitration proceeding; and is therefore, bound by the Arbitrator's ruling and determination.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Charles Kleinbaum, Esq. , was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on April 7, 1995 and not by the Respondents as required by Sections 12 and 13 of the NASD Code of Arbitration Procedure.

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 Respondent Hanover Sterling & Co., Ltd., is liable and shall pay to the Claimant Alexander Hillman, \$10,000.00 in actual damages.
2. The Claims of the Claimant Alexander Hillman against Respondent Michael Orlino are dismissed.
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. Respondent Hanover Sterling & Co., Ltd is liable and shall pay to the Claimant Alexander Hillman \$150.00 as reimbursement of the filing fee.

AFFIRMATION

I, **CHARLES KLEINBAUM, 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.

A handwritten signature in dark ink, appearing to read 'Charles Kleinbaum', is written over a horizontal line.

Charles Kleinbaum, Esq.

DATE OF DECISION:

February 27, 1996