

NASD REGULATION AWARD

In the Matter of the Arbitration Between

Name of Claimant

Kevin Katchmar

95-02842

Name of Respondents

Hanover Sterling & Co.
Paul Medaglia
Lowell Schatzer

REPRESENTATION

For claimant Kevin Katchmar ("claimant") appeared John E. Lawlor, Esq., a sole practitioner from Mineola, New York.

For respondent Paul Medaglia ("Medaglia") appeared Scott M. Zucker, Esq., a sole practitioner Great Neck, New York.

Respondents Hanover Sterling & Co. ("Hanover") and Lowell Schatzer did not enter appearances in this matter.

CASE INFORMATION

Statement of Claim was filed on June 6, 1995. Claimant's Submission Agreement was signed on March 27, 1995.

Statement of Answer was filed by respondent Medaglia on May 1, 1996. Medaglia's Submission Agreement was signed on May 14, 1996.

Neither Hanover nor Schatzer filed a Statement of Answer or a Submission Agreement.

HEARING INFORMATION

Pre-Hearing Conference: October 22, 1996

Hearing Dates/Sessions:	January 14, 1997	-	Two Sessions
	March 12, 1997	-	One Session

The hearing conducted on January 12, 1997 was held at the City Midday Club located at 140 Broadway, New York, New York. The hearing conducted on March 12, 1997 was held at the offices of NASD Regulation, Inc. located at 125 Broad Street, New York, New York.

CASE SUMMARY

Claimant alleged that he opened an account with Hanover in or about August 1994. Claimant further alleged that, in or about December 1994, Medaglia contacted him and advised him that he had a great deal on Play Co. and that the units were going to split on January 18, 1995 and that, although they were selling at \$21.50 per unit, they would be trading higher after the split and that he would sell the securities after the split. Claimant contended that, based on Medaglia's assurances, he agreed to purchase 500 shares of Play Co. for a total price of \$10,648.00, inclusive of miscellaneous fees.

Claimant alleged that, on January 23, 1995, he called Medaglia who advised him that the stock had not yet split. Claimant maintained that, on February 13, 1995, he read in the newspaper that Play Co. had split some time before and he began to call Medaglia to find out at what price the sale of his securities had taken place, but that Medaglia would not take his telephone calls. Claimant further alleged that Hanover subsequently went out of business and the market for Play Co. collapsed.

Medaglia maintained that claimant was an active trader in many securities and was aware of the risks and potential rewards of the securities industry and actively sought out trading profits. Medaglia further maintained that at all times he acted in claimant's best interests and adhered to the NASD Rules of Fair Practice. Medaglia alleged that claimant was attempting to disavow unprofitable transactions based on untenable allegations of misleading information.

RELIEF REQUESTED

Claimant requested an award in an amount to be determined at the hearing but believed to be \$9,031.70; interest from January 3, 1995; costs; and for such other further and different relief as the arbitrator deems appropriate.

Medaglia requested that the arbitration by claimant against him be dismissed in its entirety and that he be granted such other and further relief as the panel may deem just and proper.

OTHER ISSUES CONSIDERED & DECIDED

On May 28, 1996, liquidation proceedings were commenced for respondent Hanover Sterling & Co. pursuant to the Securities Investor Protection Act, 15 U.S.C. 78aaa *et seq.* Pursuant to this filing, all matters concerning Hanover Sterling & Co. were indefinitely stayed.

The arbitrator determined that respondent Schatzer was not served with Notice of the Hearing in this matter and, therefore, the arbitrator has dismissed all claims against Schatzer without prejudice.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Medaglia be and hereby is liable and shall pay claimant the sum of \$9,375.82 plus interest of 9% from March 12, 1997 until the date of payment.
2. The parties shall bear their own costs, including attorneys' fees.
3. All other claims are hereby denied.

FORUM FEES

Pursuant to Rule 10332(c) (formerly Section 43(c)) of the Code of Arbitration Procedure, the arbitrator has determined that NASD Regulation shall retain the \$100.00 non-refundable filing previously paid by claimant and has assessed the following forum fees:

1 pre-hearing conference x \$300.00	= \$ 300.00
3 hearing sessions x \$300.00	= <u>\$ 900.00</u>
Total forum fees	= \$1,200.00

1. Claimant be and hereby is liable for the sum of \$600.00, representing one-half of the total amount of forum fees assessed. Claimant previously deposited \$300.00 with NASD Regulation and, therefore, claimant shall pay the balance of \$300.00.
2. Medaglia be and hereby is liable and shall pay the sum of \$600.00, representing one-half of the total amount of forum fees assessed.

Fees are payable to the NASD Regulation, Inc.

~~Arbitrator's Signature~~



Richard W. Vallario, Esq.
Public Arbitrator

Date of Decision: June 12, 1997

I, Richard W. Vallario, Esq., do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual who executed this instrument which is my award.



Richard W. Vallario, Esq.