

## N.A.S.D. AWARD

## NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration BetweenName of Claimants

Jerome and Mildred Toder

95-03274

Name of RespondentsFirst Hanover Securities  
Stephen Guzofsky© National Association of  
Securities Dealers, Inc

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REPRESENTATION

Claimants Jerome and Mildred Toder ("claimants") appeared pro se.

For respondent First Hanover Securities ("First Hanover") appeared Charles M. O'Rourke, Esq., a sole practitioner located in Garden City, New York.

Respondent Stephen Guzofsky ("Guzofsky") did not appear at the hearing in this matter.

CASE INFORMATION

The Statement of Claim was filed on July 5, 1995. Claimants' Submission Agreement was signed on July 5, 1995.

First Hanover's Statement of Answer was filed on September 6, 1995. First Hanover's Amended Answer was filed on October 12, 1996, First Hanover's Submission Agreement was signed on September 19, 1995.

Guzofsky did not file a Statement of Answer or Submission Agreement.

HEARING INFORMATION

Pre-Hearing Conference: April 9, 1996

Hearing Date/Sessions: April 29, 1996 - Two Sessions

The hearing was held at the offices of the National Association of Securities Dealers, Inc. located in New York, New York.

### CASE SUMMARY

Claimants alleged that Guzofsky, while employed by First Hanover, made unauthorized trades in their account during 1994. Claimants further alleged that Guzofsky was authorized to purchase and sell stocks and write calls against stocks they owned, but that he was never authorized to do this on margin. Claimants maintained that Guzofsky violated their instructions by purchasing stock index options and calls on margin.

Claimants alleged that Guzofsky told them that he was following their instructions and, therefore, they did not question his activities. Claimants further alleged that, in September 1994, Guzofsky left First Hanover and went to another firm where he continued to make similar trades. Claimants contended that, in April 1995, they met with Guzofsky and that he admitted his wrongdoing and recommended that they bring an action against the firms.

Respondent First Hanover maintained that the claims should be dismissed because claimants were negligent and failed to observe ordinary care and prudence with respect to their brokerage accounts. First Hanover further maintained that it must depend on the customer a great deal to notify the firm of any unauthorized transactions. First Hanover contended that claimants signed a customer agreement which provided that confirmations and statements were binding if the customer did not object, in writing, within ten days of receipt. First Hanover further contended that claimants did not complain for more than a year and, therefore, claimants' were the cause of their losses.

### RELIEF REQUESTED

Claimants requested an award in the amount of \$103,302.00, representing interest charges, stock option losses, Motorola call transactions and Value Vision call transactions.

First Hanover requested that all claims be dismissed and that all costs and expenses, including reasonable attorneys' fees be assessed against claimants.

### OTHER ISSUES CONSIDERED & DECIDED

The arbitrators determined that respondent Guzofsky was not served with the Statement of Claim in this matter and, therefore, the arbitrators dismissed the claim against Guzofsky without prejudice.

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 and post hearing submissions, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. All claims against First Hanover be and hereby are dismissed in their entirety.
2. Each party shall bear their respective costs, including attorneys' fees.
3. All other claims are hereby denied

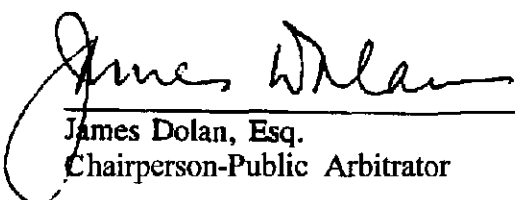
**FORUM FEES**

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the arbitrators have determined that the NASD shall retain the \$200.00 non-refundable filing fee previously deposited by claimants and have assessed the following forum fees:

1 pre-hearing conference	= \$ 300.00
2 hearing sessions x \$750.00	= <u>\$1,500.00</u>
Total forum fees	= <u>\$1,800.00</u>

Claimants Jerome and Mildred Toder be and hereby are liable for the sum of **\$1,800.00**, representing the total amount of forum fees assessed. Claimants previously deposited \$750.00 with the NASD and, therefore, claimants are liable and shall pay **\$1,050.00** to the NASD.

Fees are payable to the National Association of Securities Dealers, Inc.

Arbitrators' Signatures  
James Dolan, Esq.  
Chairperson-Public Arbitrator

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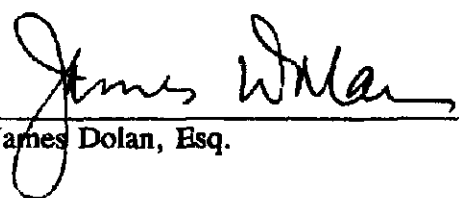
Kenneth M. Felder  
Public Arbitrator

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Thomas Levis  
Industry Arbitrator

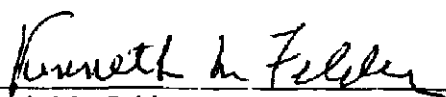
Date of Decision: August 13, 1996

I, **James Dolan, Esq.**, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

  
James Dolan, Esq.

Arbitrators' Signatures

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James Dolan, Esq.  
Chairperson-Public Arbitrator

  
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Kenneth M. Felder  
Public Arbitrator

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Thomas Levis  
Industry Arbitrator

Date of Decision: August 13, 1996

I, **Kenneth M. Felder**, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

  
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Kenneth M. Felder

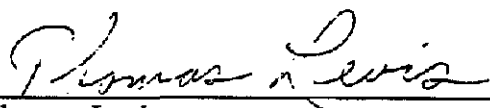
Arbitrators' Signatures

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James Dolan, Esq.  
Chairperson-Public Arbitrator

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Kenneth M. Felder  
Public Arbitrator

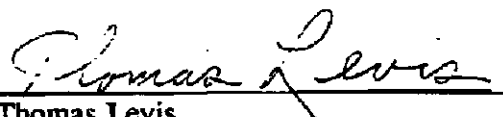


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Thomas Levis  
Industry Arbitrator

Date of Decision: August 13, 1996

I, **Thomas Levis**, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.



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Thomas Levis