

NASD AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Stephen C. Shalinsky,
Claimant,

v. No. 95-03303

General securities Corp.,
Respondent.

REPRESENTATION OF PARTIES

Stephen C. Shalinsky ("Claimant") was represented by Daniel L. Goldberg, Esq., St. Charles, Missouri.

General Securities Corp. ("Respondent") was represented by Jane L. Stafford, Esq., of Watson & Marshall, Kansas City, Missouri.

CASE INFORMATION

Claimant's Statement of Claim was filed on or about July 10, 1995. Claimant's Submission Agreement was signed on June 24, 1995.

Respondent's Statement of Answer was filed on or about August 15, 1995. Respondent Submission Agreement was signed on August 11, 1995.

HEARING INFORMATION

The hearing was held on March 13, 1996 in Kansas City, Missouri for a total of two (2) sessions.

CASE SUMMARY

Claimant alleged that Respondent: made 79 transactions in Claimant's account, an average of a trade every 9 days (or a turnover ratio of 15.48), which was excessive in light of claimant's financial needs, resources and investment objectives and done primarily for the commissions generated; made unauthorized transactions; made unsuitable investments were inappropriate for Claimant's investment objectives; made speculative investments with little or no explanation and in total disregard of Claimant's assets and prior trading history or knowledge; made misrepresentations and omissions about the inherent risks of the particular investment vehicles purchased for Claimant's

account; breached its fiduciary duty with Claimant; and committed fraud and deceit in violation of the Kansas Statutes and SEC Rule 10b-5. The securities giving rise to these allegations were fully presented at the hearing of this matter.

Respondent denied the allegations set forth in the Statement of Claim. Respondent specifically stated that: The use of calendar spreads, based on solid research and analysis, was discussed, formulated, and carefully explained to Claimant; Claimant indicated he understood the strategy and thereafter authorized the trades; the majority of trades occurred in 1990, and any resulting claims are thereby barred by applicable statutes of limitations; all the stock investments were good for Claimant, neither the realities of investing nor governing law allow investors to keep only the good and return the bad; every investment transaction was based on either solid research and analysis, the investment strategies expressly desired by Claimant or simply his desire for funds and income; and by the governing rules of the NASD, Respondent is strictly prohibited from guaranteeing investments.

RELIEF REQUESTED

Claimant requested an award in the amount of : Compensatory damages in the amount of \$47,727; punitive damages in the amount of three times that sum of compensatory damages or \$143,181; costs, filing fees and expenses of the proceeding of approximately \$3,000; and a reasonable attorney's fee or representative's fee for a total request of damages in the amount of \$193,908 and such other relief as this panel deemed just and appropriate.

Respondent requested that the claims asserted against it be denied in their entirety.

OTHER ISSUES CONSIDERED & DECIDED

On or about August 15, 1995, Respondent filed a Motion to Dismiss. After review of the motion, the response, the pleadings, and deliberation, the arbitrators denied the motion.

The parties have agreed that a handwritten, signed Award may be entered. The parties have agreed to receive conformed copies of the award while the original remains 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:

General Securities Corp. is liable for, and shall pay to Stephen Shalinsky the sum of \$13,600 as satisfaction of his claim for compensatory damages.

Each party shall bear its own costs and expenses, including attorneys' fees, associated with this arbitration.

All claims/requests for relief not specifically set forth herein are, and each of them, denied with prejudice.

FORUM FEES

Forum fees are calculated at the rate of \$750 per hearing session and \$300 for each pre-hearing conference, if any. There were two (2) sessions x \$750 = \$1,500 in forum fees. Pursuant to §43(b) of the NASD Code of Arbitration Procedure (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 §43(c) of the Code, the NASD shall retain the non-refundable filing fee in the amount of \$200 and shall refund the hearing session deposit in the amount of \$750 previously deposited with the NASD by the Claimant.

Pursuant to §45 of the Code, the Respondent is liable for, and shall pay to the NASD the sum of \$350 as an assessment of its member surcharge.

Additional forum fees in the amount of \$1,500 are assessed against General Securities Corp..

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

Dated:

Michael D. Fitzgerald
Michael D. Fitzgerald
Public Arbitrator, Presiding Chair

s/s

April 16, 1996

Michael S. Hill
Michael S. Hill
Public Arbitrator

s/s

April 20, 1996

Alan D. Beauchaine
Alan D. Beauchaine
Industry Arbitrator

s/s

April 19, 1996