

AWARD

NASD Regulation, Inc. Office of Dispute Resolution

In the Matter of the Arbitration Between

Tong Shu Li,

Claimant,

v.

No. 95-04861

AAA Stockbrokers, Inc.,
and Fusung Peter Wu,

Respondents.

REPRESENTATION OF PARTIES

Claimant Tong Shu Li was represented by J. Brantley Saunders of The Barbknecht Firm located in Dallas, Texas.

Respondents AAA Stockbrokers, Inc. and Fusung Peter Wu were represented by Jonathan A. Pace, Esquire of Pace & Rickey, LLP located in Dallas, Texas.

CASE INFORMATION

Claimant Tong Shu Li's Statement of Claim was filed on or about October 16, 1995.

Claimant Tong Shu Li's Submission Agreement was signed on October 10, 1995.

Respondents AAA Stockbrokers, Inc. and Fusung Peter Wu's joint Statement of Answer was filed on or about November 21, 1995.

Respondent AAA Stockbrokers, Inc.'s Submission Agreement was signed on November 29, 1995 by Fusung Peter Wu, President of AAA Stockbrokers, Inc.

Respondent Fusung Peter Wu's Submission Agreement was signed on November 29, 1995.

HEARING INFORMATION

The hearing was held on October 8, 1996 for two (2) sessions.

The hearing was held in Dallas, Texas.

CASE SUMMARY

Claimant Tong Shu Li ("Claimant") alleged that respondents AAA Stockbrokers, Inc. and Fusung Wu ("Respondents") failed to execute a buy order properly, which resulted in losses from liquidation. Claimant asserted that Respondents had advertised Netscape stock for \$14 per share, but was told on August 7, 1995, by respondent Fusung Peter Wu (respondent "Wu"), that the share price was between \$28 and \$32 per share. Claimant further asserted that he had \$32,000 in his account with Respondents, and that he instructed respondent Wu to purchase 1,000 shares of Netscape for him based on this price. According to Claimant, when he contacted respondent Wu on August 9, 1995, he was informed that he had purchased 1,000 shares of Netscape at \$71 per share, to which Claimant responded by rejecting the purchase. Claimant then asserted that on August 14, 1995, respondent Wu contacted him and his wife to tell them that due to their account imbalance he was going to have to sell three stocks they previously held plus 200 shares of Netscape; Claimant asserted that this was also rejected because the three other stocks would experience losses, but respondent Wu sold the stock anyway. In sum, Claimant alleged losses of more than \$30,000 and mental suffering.

Respondents denied the allegations set forth in the Statement of Claim. Respondents stated that Claimant agreed to purchase 1,000 shares of Netscape with no limit order and that by directing Respondents to sell his shares of Netscape on August 23, 1995, he ratified and confirmed the purchase and cannot now complain.

RELIEF REQUESTED

Claimant Tong Shu Li requested an award in the amount of \$30,000 for compensatory damages.

Respondents AAA Stockbrokers, Inc. and Fusung Peter Wu requested that the claims asserted against them be denied in their entirety.

OTHER ISSUES CONSIDERED & DECIDED

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 original(s) remain on file with NASD Regulation, Inc. Office of Dispute Resolution.

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:

- (1) That respondents AAA Stockbrokers, Inc. and Fusung Peter Wu are jointly and severally liable for and shall pay claimant Tong Shu Li \$25,909.00 for compensatory damages; and
- (2) That other than forum fees, which are addressed below, all other claims and requests for relief not specifically awarded here are, and each of them, hereby denied with prejudice.

FORUM FEES

Forum fees are calculated at the rate of \$400 per hearing session and \$300 for each pre-hearing conference, if any. There were two (2) hearing sessions x \$400 = \$800 in forum fees. Pursuant to §10332(b) 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 §10332(c) of the NASD Code of Arbitration Procedure, NASD Regulation, Inc. Office of Dispute Resolution shall **retain** the non-refundable filing fee in the amount of \$120 and shall **retain** as forum fees the hearing session deposit in the amount of \$400 previously deposited with NASD Regulation, Inc. Office of Dispute Resolution by claimant Tong Shu Li.

Respondent AAA Stockbrokers, Inc. is liable for and shall pay the member surcharge fee in the amount of \$200 pursuant to §10333 of the NASD Code of Arbitration Procedure.

NASD Regulation, Inc. Office of Dispute Resolution shall retain postponement fees in the amount of \$400 previously deposited by claimant Tong Shu Li.

Respondents AAA Stockbrokers, Inc. and Fusung Peter Wu are jointly and severally liable for and shall pay forum fees in the amount of \$400 (= \$800 total forum fees - \$400 hearing session deposit).

Respondents AAA Stockbrokers, Inc. and Fusung Peter Wu are jointly and severally liable for and shall pay claimant Tong Shu Li \$400 for reimbursement of hearing session deposit.

Fees are payable to NASD Regulation, Inc. Office of Dispute Resolution.

Concurring Arbitrators:

/s/ K. Steve Kimball
K. Steve Kimball
Public Arbitrator, Presiding Chair

Dated:

12-2-96

/s/ Arvel G. McCulloch
Arvel G. McCulloch
Public Arbitrator

11-22-96

/s/ Charles T. Dix
Charles T. Dix
Industry Arbitrator

11-25-96

Date of Service by the NASDR Office of Dispute Resolution: December 4, 1996