

N.A.S.D. REGULATION AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS REGULATION, INC.

In the Matter of the Arbitration Between

Name of Claimant

Jeffrey Leston

96-01249

Name of Respondents

American Stock Transfer Co.
National Financial Services Corporation

REPRESENTATION

Claimant Jeffrey Leston ("claimant") appeared Pro Se.

For respondent National Financial Services Corporation ("National Financial") appeared Michael G. Shannon, Esq. of the law firm Phillips, Lytle, Hitchcock, Blaine & Huber located in New York, New York.

Respondent American Stock Transfer Co. did not enter an appearance at the hearing.

CASE INFORMATION

Statement of Claim filed: March 20, 1996.

Claimant's Submission Agreement signed on: March 18, 1996.

Statement of Answer filed by respondent National Financial on: June 20, 1996.

Respondent National Financial's Submission Agreement signed on: May 29, 1996.

Respondent American Stock Transfer Co. is not an NASD member and was served on a voluntary basis but did not submit to the jurisdiction of NASD Regulation, Inc..

HEARING INFORMATION

Pre-Hearing Conference: February 14, 1997 one session

Hearing Dates/Sessions: March 3, 1997 two sessions

The hearings were conducted in the New York City metropolitan area and were administered under the auspices of NASD Regulation, Inc. located at 125 Broad Street, New York, New York.

CASE SUMMARY

Claimant alleged that on December 16, 1995 he deposited 1996 shares of SEER Technologies ("SEER") into his Fidelity Investments Account at which time the stock was trading around \$13.00 per share. Claimant further alleged that in conjunction with the deposit, although not required to do so, he filed a Form 144K which was lost by Fidelity. Claimant also alleged that Fidelity claims the shares were transferred to American Stock Transfer ("AST") on January 15, 1996.

Claimant contended that as of October 10, 1995 AST maintained a Blanket Opinion Letter indicating that the shares were not subject to Rule 144. Claimant further contended that at no time after the shares were deposited, did National Financial attempt to pass the shares to the transfer agent or attempt to determine if the share restrictions related to Rule 144 could be removed.

Claimant asserted that on January 31, 1996, after he placed numerous phone calls, Fidelity informed him that it would take 6-8 weeks to transfer the shares because of the restrictions. Claimant further asserted that immediately thereafter, he contacted SEER Technologies which informed him that a new share certificate had already been issued on January 25, 1996 and provided him with the window ticket number. Claimant also asserted that National Financial then transferred the shares into his account on February 1, 1996 but that the shares had fallen to \$6.25 per share. Claimant alleged that he had been unable to sell the shares because of respondent's conduct and that as a result of the above, he has suffered losses for which the respondent should be held liable.

Respondent National Financial Services Corporation maintained that it is a clearing broker for Fidelity Brokerage Services, Inc. ("Fidelity") and that claimant cleared the disputed SEER transaction through it via Fidelity. Respondent also maintained that although claimant alleges that it should have acted to remove the restrictions on the security, that duty rests with him, the owner and seller. Respondent also maintained that it informed of the process for removing the restriction.

Respondent contended that claimant sought to clear his SEER shares which contained Rule 144 restrictions. Respondent held that such restrictions had to be addressed prior to a transfer of the shares in order to comply with securities laws. Respondent further contended that claimant verbally informed Fidelity that a Blanket Opinion Letter had been issued removing the restrictions from the securities but that in the furtherance of conducting a reasonable inquiry, it wanted a physical copy of the letter and wanted to verify its accuracy prior to removing the restrictions and transferring the shares. Respondent also contended that it had to contact the claimant twice in order to get the needed information and that once the restrictions had been lifted it picked up the shares and placed them in claimant's account on February 1, 1996. Respondent asserted that as a result of the above, it should not be held liable.

RELIEF REQUESTED

Claimant requested \$13,972.00 in actual damages.

Respondent requested that the claim be dismissed in its entirety and that claimant be assessed all forum fees and costs.

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 originals remain 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:

1. Respondent National Financial Services Corporation is liable and shall pay to claimant Jeffrey Leston \$2,234.25 in actual damages.
2. The parties shall bear their respective attorney's fees and costs.
3. All other relief requests are denied.

FORUM FEES

Pursuant to Rule 10332(c) of the Code of Arbitration Procedure, the arbitrators have determined that NASD Regulation, Inc. shall retain the \$100.00 non-refundable filing fee previously deposited by claimant and have assessed the following forum fees:

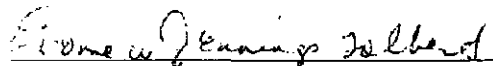
Two sessions x \$400.00	= \$800.00
One pre hearing session x \$300.00	= \$300.00
Minus claimant's \$400.00 deposit	= <u>\$400.00</u>
total outstanding	= \$700.00

Claimant be and hereby liable for the sum of \$400.00 representing one-half of the total amount of forum fees assessed. Claimant previously deposited \$400.00 with the NASD. Therefore, the claimant shall pay \$150.00 to NASD Regulation, Inc. in satisfaction of the forum fees.

Respondent be and hereby liable for the sum of \$550.00 representing one-half of total amount of forum fees assessed. Therefore, respondent shall pay \$550.00 to NASD Regulation, Inc. in satisfaction of the forum fees.

ARBITRATORS' SIGNATURES

I, Evonne Jennings Tolbert, 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.


Evonne Jennings Tolbert, Esq.
Public Chairperson

I, James Madan, 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 Madan
Industry Panelist

I, Christine Anderson, 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.

Christine Anderson, Esq.
Public Panelist

Date of Decision: April 18, 1997

ARBITRATORS' SIGNATURES

I, Evonne Jennings Tolbert, 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.

Evonne Jennings Tolbert, Esq.
Public Chairperson

I, James Madan, 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 Madan
Industry Panelist

I, Christine Anderson, 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.

Christine Anderson, Esq.
Public Panelist

Date of Decision: April 18, 1997

ARBITRATORS' SIGNATURES

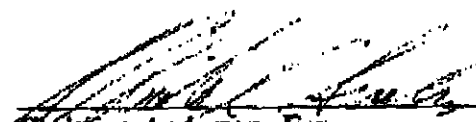
I, Evonne Jennings Tolbert, Esq., do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein, and who executed this instrument which is my award.

Evonne Jennings Tolbert, Esq.
Public Chairperson

I, James Madan, 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 Madan
Industry Panelist

I, Christine Anderson, 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.



Christine Anderson, Esq.
Public Panelist

Date of Decision: April 18, 1997