

N.A.S.D. REGULATION AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS REGULATION, INC.

In the Matter of the Arbitration Between

Name of Claimant

Ahmed F. Khadr

96-03930

Name of Respondents

D.H. Blair & Company
Jeffrey Woodrow Berns

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers Regulation, Inc. on September 4, 1996 Claimant Ahmed Fouad Khadr ("Claimant"), who appeared Pro Se, alleged that Respondent Jeffrey Woodrow Berns ("Berns") was an Account Executive at Respondent D.H. Blair & Co. Inc. ("D.H. Blair"). Claimant further alleged that without authorization on January 4, 1994, Berns purchased 2700 shares of Natural Earth Technology ("NETX") common stock totalling \$11,815.00. Claimant also alleged that at the time the stock was purchased he was away from the United States and had been in Egypt from January 15, 1993 to March 21, 1994. Claimant asserted that on May 4, 1995 and May 31, 1995 he complained to the President and Legal/Compliance Department of D.H. Blair respectively, but received no response. Claimant further asserted that in his complaint letter of June 15, 1995 he informed the President of D.H. Blair that in the event he did not agree with the claim, he should sell the stock and forward the proceeds. Claimant also asserted that he informed D.H. Blair that he was reserving the right to sue for the difference. Claimant alleged that on June 20, 1995 D.H. Blair sold his shares of NETX and sent him the proceeds which totalled \$6,072.00. Claimant further alleged that D.H. Blair is liable for the \$5,743.00 difference between the balance of his account prior to the unauthorized transaction and the proceeds of the sale of the stock.

In supplemental submission dated November 21, 1996, Claimant contended that he never opened an account at D.H. Blair, never had any conversation or communication with Berns and never authorized the respondents to transfer his securities from his Ameritrade account. Claimant further contended that while he was in Egypt, his son without any authorization, asked Berns to open the D.H. Blair account and transfer the securities from his Ameritrade account. Claimant also contended that he did provide this information in the Statement of Claim because of his son's involvement and there was no harm done.

Respondents D.H. Blair & Co. Inc. and Jeffrey Woodrow Berns ("Respondents"), through their in-house counsel, Howard M. Wynn, maintained that on November 24, 1993, Claimant opened an account at D.H. Blair with Berns as his registered representative. Respondents further maintained that at the time the account was opened Claimant indicated that he was a sophisticated investor and also stated that his investment objective was speculation. Respondents also maintained that on December 31, 1993, Claimant transferred five securities from his Ameritrade account to his D.H. Blair account. Respondents asserted that on January 11, 1994 claimant authorized the sale of the securities which he had transferred from his Ameritrade account and instructed Berns to utilize the proceeds of the sale to purchase 2700 shares of NETX.

Respondents further asserted that prior to the placement and execution of the order Claimant had discussed in detail and authorized the purchase of the NETX shares with Berns. Respondents contended that upon execution of the purchase, Claimant was sent a confirmation slip and does not dispute that he received it. Respondents further contended that upon receipt of the confirmation Claimant did not voice any complaints to D.H. Blair because the trades were authorized. Respondents also contended that Claimant held the NETX shares until June 20, 1995 after he became dissatisfied with the stock's performance and instructed Berns to liquidate the position and remit the proceeds to him. Respondents maintained that according to Claimant's instructions, a check of \$6,108.00 was remitted to him. Respondents further maintained that during the time Claimant indicated that he was out of the country, he opened the account at D.H. Blair and transferred his securities from Ameritrade to D.H. Blair. Respondents contended that Claimant waited nearly 1 1/2 years to file his complaint with D.H. Blair and another 15 months after D.H. Blair's denial of his claim to institute arbitration. Respondents further contended that Claimant's claim is a case of buyer's remorse, is without merit and must be denied in its entirety.

RELIEF REQUESTED

Claimant Ahmed Fouad Khadr requested \$5,743.00 which is the difference between the balance of his account before the unauthorized transaction (\$11,815.00) and the proceeds of the sale of the stock (\$6,072.00), plus the filing fee and \$50 for miscellaneous expenses.

Respondents D.H. Blair & Co. Inc. and Jeffrey Woodrow Berns requested that Claimant's claim for payment of \$5,743.00 be denied in its entirety and the Statement of Claim be dismissed.

AWARD

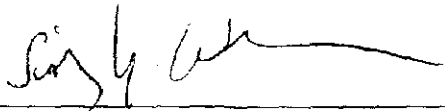
Pursuant to Rule 10302 of NASD Regulation, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Sidney N. Weiss, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant Ahmed Fouad Khadr on August 28, 1996, by Respondent D.H. Blair & Co. Inc. on November 4, 1996 and not by Respondent Jeffrey Woodrow Berns as is required by Rule 10302 of the NASD Code of Arbitration Procedure.

And, the Arbitrator, having considered the proof of the parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. The claim of Claimant Ahmed Fouad Khadr against Respondents D.H. Blair & Co. Inc. and Jeffrey Woodrow Berns is dismissed in its entirety.
2. The parties shall bear their respective costs.
3. The \$150.00 filing fee previously deposited with National Association of Securities Dealers Regulation, Inc. by the Claimant Ahmed Fouad Khadr shall be retained by NASD Regulation, Inc.
4. All other relief requests are denied.

AFFIRMATION

I, **SIDNEY N. WEISS**, do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.

A handwritten signature in cursive script, appearing to read "Sidney N. Weiss", is written over a horizontal line.

Signature of Arbitrator

Date of Decision: May 7, 1997