

NASD REGULATION AWARD

In the Matter of the Arbitration Between

Name of Claimant

Edwin Brit Wyckoff

96-03931

Name of Respondents

Adam Kaplan
State Capital Markets Corp.

REPRESENTATION

Claimant Edwin Brit Wyckoff ("claimant") appeared pro se.

Respondent Adam Kaplan ("Kaplan") appeared pro se.

Respondent State Capital Markets Corp. ("State Capital") did not appear at the hearings.

CASE INFORMATION

Statement of Claim was filed on: September 4, 1996.

Claimant's Submission Agreement was signed on: October 10, 1996.

Statement of Answer was filed by Kaplan on: November 24, 1996.

Kaplan's Submission Agreement was signed on: December 18, 1996.

Statement of Answer was filed by State Capital on: November 26, 1996.

State Capital did not submit a properly executed Submission Agreement.

HEARING INFORMATION

Hearing Dates/Sessions:	April 9, 1997	-	1 session
	May 8, 1997	-	1 session

The hearings were conducted at the offices of NASD Regulation, Inc., located in New York, New York.

CASE SUMMARY

Claimant alleged that, on August 23, 1996, he was unable to sell 1000 shares of Cable Co. common stock which was worth \$10.00 per share. Claimant maintained that his original broker was Robert Sella but that the account was being handled by Kaplan. In addition, claimant alleged that, when he called State Capital, no broker was available to handle his sell order and that no back up was provided for Kaplan who was on his honeymoon. Claimant also alleged that, on August 30, 1996, the stock was sold for \$3,250.00, resulting in a loss of \$6,750.00.

Kaplan alleged that claimant's account was handled by Robert Sella and that he had tried to help claimant with some of his questions. Kaplan further contended that he was not in the office on August 23, 1996 or the following week. In addition, Kaplan maintained that claimant could have sold his stock while he was out of the office by contacting either State Capital's compliance or operations departments. Kaplan further maintained that he was not responsible for claimant's stock not being sold.

State Capital contended that claimant's alleged difficulty contacting his broker was not due to a deliberate policy of State Capital. In addition, State Capital maintained that any alleged losses suffered were the result of market activity. State Capital also alleged that its internal guidelines directed the sales staff to promptly respond to customer orders.

In addition, State Capital asserted a cross-claim against Kaplan for indemnification. State Capital alleged that Kaplan's alleged statements were inconsistent with its internal guidelines and constituted a breach of Kaplan's fiduciary duties of loyalty.

RELIEF REQUESTED

Claimant requested actual damages in the amount of \$6,750.00.

Kaplan requested that all claims be dismissed in their entirety.

State Capital requested an award:

1. denying all claims in the Statement of Claim;
2. assessing the costs of this proceeding against claimant, inclusive of it's attorneys' fees;
3. assessing all amounts for which it may be found liable against Kaplan; and
4. all such other and further relief as the arbitrator may deem just and necessary.

OTHER ISSUES CONSIDERED & DECIDED

The panel made the following determinations concerning respondent State Capital, who did not file a Submission Agreement and did not appear at the hearing in this matter:

1. Pursuant to Rule 10101 of the Code of Arbitration Procedure ("Code"), the panel found subject matter jurisdiction over this entire controversy.
2. The panel found that State Capital was a member of the NASD at the time this controversy arose. Accordingly, the panel found personal jurisdiction over State Capital pursuant to Rule 10201/10301 of the Code.
3. The panel found that State Capital was required to file a Submission Agreement with NASD Regulation pursuant to Rule 10314(b) of the Code.
4. In addition, in accordance with Rules 10310, 10315 and 10318 of the Code, the panel found that NASD Regulation provided State Capital with "due notice" of the hearings conducted in this matter by regular and certified mail. The panel further determined to proceed with the hearing without State Capital whose absence was unexcused.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. All claims against Kaplan are hereby dismissed.
2. State Capital be and hereby is liable and shall pay claimant the sum of **SIX THOUSAND SEVEN HUNDRED FIFTY DOLLARS (\$6,750.00)**.
3. State Capital be and hereby is liable and shall pay claimant the sum of \$200.00 to reimburse claimant for the hearing session deposit he previously paid to NASD Regulation.
4. State Capital's cross-claims are denied in their entirety.
5. All other requests are hereby denied.

FORUM FEES

Pursuant to Rule 10332(c) of the Code of Arbitration Procedure, the arbitrator has determined that NASD Regulation shall retain the non-refundable filing fee of \$75.00 and assessed the following forum fees:

2 hearing sessions x \$200.00	=	\$400.00
member surcharge	=	\$100.00

State Capital be and hereby is liable for \$500.00 representing the total amount of forum

fees assessed. Claimant previously deposited \$200.00 with NASD Regulation, and therefore, State Capital is liable and shall pay \$300.00 to NASD Regulation, Inc., representing the total amount of forum fees outstanding.

Fees are payable to the NASD Regulation, Inc.

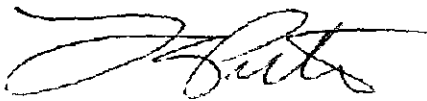
Arbitrator's Signature



Lawrence A. Pittore, Esq.
Chairperson-Public Arbitrator

Date of Decision: July 8, 1997

I, Lawrence A. Pittore, 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.



Lawrence A. Pittore, Esq.