

97708098

NASD REGULATION AWARD

In the Matter of the Arbitration Between

Name of Claimant

Henry Murad

96-04421

Name of Respondent

State Street Capital Markets Corp.

REPRESENTATION

Claimant Henry Murad ("claimant") appeared pro se.

For respondent State Street Capital Markets Corp. ("respondent") appeared John Bersin, Esq., at State St of the law offices Gursae, Kaplan & Bruno located in New York, New York. However, John Bersin, Esq. withdrew as counsel for the respondent prior to the hearing. Bersin, Esq. withdrew

CASE INFORMATION

Statement of Claim was filed on: October 2, 1996.

Claimant's Submission Agreement was signed on: October 2, 1996.

Statement of Answer was filed by respondent on: December 13, 1996.

Respondent did not submit a properly executed Submission Agreement.

HEARING INFORMATION

Hearing Date/Sessions: May 6, 1997 - 1 session

The hearing was conducted at the offices of NASD Regulation, Inc. located in New York, New York.

CASE SUMMARY

Claimant contended that, in early July, he ordered the sale of 1000 shares of Cable & Co. at \$11.50 per share and that he assumed the order was not executed because he did not hear from the broker. Claimant maintained that all of his mail was sent to his Bayonne business address and that he rarely looked in his Manhattan mailbox. However, claimant alleged that, upon learning that mail may have been sent to his Manhattan address, he opened his Manhattan

mailbox and found trade confirmations from respondent. Claimant contended that one of these trade confirmations was for the purchase of 1500 shares of US Bridge at \$6.1875 and that he never requested this purchase. In addition, claimant alleged that he found a trade confirmation for the sale of 1000 shares of Cable & Co. stock and that respondent withheld 20% of the sale proceeds which resulted in an account deficit. Claimant contended that, in order to clear the deficit, respondent sold an additional 525 shares of Cable & Co. stock.

Respondent contended that claimant authorized all transactions and received confirmations for all activity in his account. In addition, respondent alleged that, prior to commencing this arbitration, claimant never complained in writing about these transactions. Respondent further contended that any losses claimant may have suffered were the result of market activity and not any wrongdoing by respondent.

RELIEF REQUESTED

Claimant requested \$9,293.75 in actual damages.

Respondent requested an award denying all claims in the Statement of Claim, assessing the costs of this proceeding against claimant, including attorneys' fees.

OTHER ISSUES CONSIDERED & DECIDED

The claimant, the only party who appeared at the hearing in this matter, has 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 claimant has agreed to receive conformed copies of the Award while the originals remain on file with the NASD.

The panel made the following determinations concerning respondent 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 (the "Code"), the panel found subject matter jurisdiction over this entire controversy.
2. The panel found that respondent was a member firm of the NASD at the time this controversy arose. Accordingly, the panel found personal jurisdiction over respondent pursuant to Rule 10301 of the Code.
3. The panel found that respondent was required to file a Submission Agreement with NASD Regulation pursuant to Rule 10314(b) of the Code. In this regard, the panel found that the Statement of Claim was properly served upon respondent 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 respondent 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 respondent whose absence was

unexcused.

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 be and hereby is liable and shall pay claimant the sum of **SEVEN THOUSAND SEVEN HUNDRED NINETY THREE DOLLARS and SEVENTY FIVE CENTS (\$7,793.75)**.
2. Respondent be and hereby is liable and shall pay claimant the sum of \$500.00 to reimburse claimant for the filing fees previously paid by claimant.
3. All other requests are hereby denied.

FORUM FEES

Pursuant to Rule 10332(c) of the Code, the arbitrators have assessed the following forum fees:

non-refundable filing fee = \$100.00
hearing session = \$400.00
member surcharge = \$200.00
Total = \$700.00

Respondent be and hereby is liable for the sum of \$700.00, representing the total amount of forum fees assessed. Claimant previously paid \$500.00 to NASD Regulation and, therefore, respondent shall pay the balance of \$200.00 to NASD Regulation and shall pay \$500.00 to claimant as provided in the "Award" section above.

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Arbitrators' Signatures



Joseph J. Arata, Esq.
Chairperson--Public Arbitrator

John F. Heimerdinger
Public Arbitrator

Frank J. DeStefano
Industry Arbitrator

Date of Decision: August 15, 1997

I, Joseph J. Arata, 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.



Joseph J. Arata, Esq.

Arbitrators' Signatures

Joseph J. Arata, Esq.
Chairperson--Public Arbitrator



John F. Heimerdinger
Public Arbitrator

Frank J. DeStefano
Industry Arbitrator

Date of Decision: August 15, 1997

I, John F. Heimerdinger, do hereby affirm, pursuant to Article 7507 of the Civil Practice Laws and Rules, that I am the individual described herein who executed this instrument which is my award.




John F. Heimerdinger

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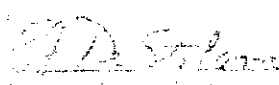
Arbitrators' Signatures

Joseph J. Arata, Esq.
Chairperson--Public Arbitrator

John F. Heimerdinger
Public Arbitrator



Frank J. DeStefano
Industry Arbitrator



Date of Decision: August 15, 1997

I, Frank J. DeStefano, do hereby affirm, pursuant to Article 7507 of the Civil Practice Laws and Rules, that I am the individual described herein who executed this instrument which is my award.



Frank J. DeStefano