

NATIONAL ASSOCIATION OF SECURITIES DEALERS REGULATION, INC.

In the Matter of the Arbitration Between

Name of Claimant

Somayaji Ramamurthy

96-05156

Name of Respondents

Marc Rosen
Edward McKay
Buttonwood Securities
Securities Planners, Inc.

CASE SUMMARY

In a case filed with the National Association of Securities Dealers Regulation, Inc. on November 19, 1996, claimant Somayaji Ramamurthy ("claimant"), who appeared Pro Se, alleged that respondents Securities Planners, Inc. ("SPI"), Buttonwood Securities ("Buttonwood"), Edward McKay ("McKay") and Marc Rosen ("Rosen") failed to reimburse him money that they owed him. Claimant further alleged that he bought thirty two units of the limited partnership named PaineWebber Qualified Property Fund LP Fund II (the "Fund"). Claimant also alleged that even though he was sent the buyers confirmation stating that they received \$8,800.00, he did not receive confirmation from the General Partner at PaineWebber that these units had been transferred to his name. Claimant asserted that he repeatedly called Rosen who kept giving him excuses. Claimant further asserted that he finally received the certificate from PaineWebber on September 1, 1995, but the certificate was for only 30 units. Claimant also asserted that after repeated efforts to correct this problem he received a letter from McKay offering to pay for all the distribution and for the two units they did not deliver. Claimant contended that he signed the letter and mailed it back to them on November 13, 1995. Claimant further contended that he expected the money soon, but he has still not received any money.

Respondent Rosen through his representative and counsel Mark Tepper, a sole practitioner, located in Fort Lauderdale, Florida, maintained that acting as an agent, he brokered the sale of units in the limited partnership to the claimant on behalf of SPI. Respondent Rosen further maintained that claimant's broker Gary Hampton ("Hampton") represented claimant for this purchase.. Respondent Rosen also maintained that claimant's allegations relate to the clearing/back office operations and procedures of SPI, not a sales practice claim. Respondent Rosen contended that he was not involved with the clearing and back office operations of SPI. Respondent Rosen further contended that McKay allegedly settled the claims with claimant and therefore, claimant's complaint is that SPI did not honor their settlement agreement with him.

Respondents SPI, Buttonwood and McKay did not file an Answer to the Statement of Claim.

RELIEF REQUESTED

Claimant Somayaji Ramamurthy requested: (1) \$4,344.70 in damages, (2) \$125.00 for the filing fee; and (3) \$868.00 for interest for two years.

Respondent Rosen requested that the claimant's Statement of Claim against him be dismissed in their entirety, that the record of this complaint, including CRD reports be expunged, and that he be awarded attorneys' fees and costs of the motion. In the alternative, respondent requested that the claim against him be denied, that the record of this complaint against him, including CRD reports, be expunged, and that he be awarded attorney's fees, costs, interest and such other relief as is fair and just.

Respondents SPI, Buttonwood and McKay did not file an Answer to the Statement of Claim.

OTHER ISSUES CONSIDERED & DECIDED

The arbitrator considered respondent Rosen's Motion to Dismiss and Request for Expungement of his CRD report. The arbitrator granted the Motion to Dismiss and granted the Request for Expungement of Rosen's CRD report.

In accordance with Rule 10302 of the Code of Arbitration Procedure, respondents SPI, Buttonwood and McKay were served by regular mail and given an opportunity to respond, which they failed to do. In addition, notice of the overdue answer and notification of the Arbitrator's identity was effected upon respondent McKay by certified mail as evidenced by the signature card on file. Pursuant to the By-laws of the NASD Regulation, Inc., the arbitrator determined that respondent McKay had notice of the claim, and were required to submit to this arbitration proceeding; and is, therefore bound by the arbitrator's ruling and determination.

In accordance with Rule 10302 of the Code of Arbitration Procedure, attempts were made to serve the Statement of Claim, Overdue Notice and Notification of Arbitrator on respondents SPI and Buttonwood, to no avail. The arbitrator determined that respondents SPI and Buttonwood did not have notice of the claim; and are, therefore not bound by this ruling and determination.

AWARD

Pursuant to Rule 10302 of the Code of Arbitration Procedure, a single Public Arbitrator, A. Bentley Nettles, was selected to review the matter in controversy between the parties set forth in Submissions to Arbitration signed by claimant Somayaji Ramamurthy on November 12, 1996 and by respondent Rosen on January 27, 1997. Respondents SPI, Buttonwood and McKay did not execute a Submission Agreement as required by Rules 10301 and 10302 of the Code of Arbitration Procedure.

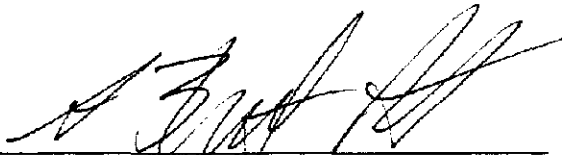
And, the Arbitrator, having considered the proof of the parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Respondent McKay be and hereby is liable and shall pay claimant the sum of \$4,344.70 in actual damages.
2. Respondent McKay be and hereby is liable and shall pay claimant interest at the rate of 10% per annum from November 1, 1995 to date of the award.
3. The claims of claimant Somayaji Ramamurthy against Rosen are dismissed in their entirety.
4. Based on the merits of this case, the claims of claimant Somayaji Ramamurthy against Rosen, shall be expunged from Rosen's permanent CRD record by NASD Regulation, Inc.

5. Respondent McKay is liable and shall pay respondent Rosen \$2,670.33 representing attorneys' fees awarded pursuant to Rosen's request.
6. The \$125.00 filing fee previously deposited by claimant shall be retained by NASD Regulation, Inc. Respondent McKay be and hereby is liable and shall pay claimant the sum of \$125.00 as reimbursement of the filing fee.

AFFIRMATION

I, A. Bentley Nettles, Esq., do hereby affirm upon my oath as arbitrator that I am the individual described herein who executed this instrument, which is my oath and award.



A. Bentley Nettles, Esq.

Date of Decision: June 24, 1997