

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS REGULATION, INC.

In the Matter of the Arbitration Between

Name of Claimant

Zakaria Suid

96-05682

Names of Respondents

First Hanover Securities, Inc.
Societe Generale Securities Corp.

Name of Third-Party Respondent

Joseph Ballard

REPRESENTATION

For Claimant Zakaria Suid ("Suid"): Andrew L. Capdeville, Esq. of Andrew L. Capdeville, P.C., St. Thomas, U.S. Virgin Islands.

For Respondents First Hanover Securities, Inc. ("First Hanover") and Societe Generale Securities, Corp. ("Societe Generale"): Charles M. O'Rourke, Esq. of First Hanover Securities, Inc., Garden City, New York.

For Third-Party Respondent Joseph Ballard ("Ballard"): Scott M. Zucker, Esq., Great Neck, New York.

CASE INFORMATION

Statement of Claim filed: December 19, 1996.

Claimant's Submission Agreement signed: December 19, 1996.

Statement of Answer and Third-Party Claim against Joseph Ballard filed by Respondent First Hanover: February 14, 1997.

Respondent First Hanover's Submission Agreement/Corporate Acknowledgment signed: January 3, 1997 by Charles S. Stoffers on behalf of First Hanover.

Motion to Dismiss and Answer of Respondent Societe Generale filed: February 14, 1997.

Respondent Societe Generale's Submission Agreement/Corporate Acknowledgment signed: January 15, 1997 by Kenneth Lampert on behalf of Societe Generale.

Respondent Ballard did not file a Statement of Answer to the third-party claim nor did he sign a Submission Agreement.

HEARING INFORMATION

The arbitration panel conducted a telephonic pre-hearing conference on June 4, 1997.

On November 12 and 13, 1997, hearings lasting four (4) sessions were conducted in Fort Lauderdale, Florida.

CASE SUMMARY

Claimant alleged that Respondent First Hanover, by and through its then representative, agent and/or employee, Ballard, induced Claimant to open an account with First Hanover by first guaranteeing him a profit on his investment and by promising to liquidate his account at any time upon his telephonic instructions. Claimant further alleged that in April, 1996, Ballard refused to timely honor Claimant's instructions to liquidate his holdings resulting in a loss to Claimant of more than \$50,000.00; that thereafter, First Hanover, through its representatives John Tabacco, Jr. ("Tabacco") and Anthony Tanico ("Tanico"), attempted to restore Claimant's position and confidence in First Hanover by telling Claimant that First Hanover would illegally establish an account in the name of Claimant's wife with its own deposit of \$18,000.00 which account First Hanover now refuses to recognize or credit to Claimant's benefit; that in another incident in July, 1996, Tanico advised the Claimant to purchase 6,000 shares of Ruok and that Claimant agreed; that, however, the Claimant received a confirmation of purchase for 12,000 shares for which Tanico later admitted full responsibility. Claimant further alleged that a subsequent decline in value of the foregoing unauthorized shares caused Claimant to suffer a loss of \$21,000.00; that in August and September, 1996 Messrs. Tabacco and Tanico delayed and refused to honor the Claimant's instructions to liquidate his holdings in contravention of their signed statement that they would liquidate the Claimant's account upon request, thus causing the Claimant to incur another loss of \$32,000.00.

Respondent First Hanover denied the allegations of wrongdoing contained in the Statement of Claim and maintained that the stocks at issue were sold on the day in question and that Claimant's belief that he was entitled to receive the price as of the previous day's close was erroneous. Respondent First Hanover further alleged that Claimant's allegation that a registered representative quoted him higher prices than existed and that he was entitled to such higher prices was incredible in that Claimant had access to stock quotation data from another broker; that Claimant's allegation that a registered representative promised to compensate him for losses was incredible in that the registered representative testified that all he did was to use his best efforts to make up for losses; that Claimant's allegation that Respondent First Hanover failed to follow instructions pursuant to a power of attorney was incredible in that the Claimant confused trade date and settlement date in making said allegation; and, that Claimant's allegation that he was naive and unsophisticated was incredible in that during the relevant time Claimant maintained another brokerage account and traded some of the same stocks on an unsolicited basis in the same manner as he did with Respondent. Respondent First Hanover asserted a third-party claim against Ballard for indemnification.

Respondent Societe Generale denied the allegations contained in the Statement of Claim and alleged that the Claimant failed to state a claim against it and that it should be dismissed as a Respondent from this proceeding.

RELIEF REQUESTED

Claimant requested damages in excess of \$100,000.00.

Respondent First Hanover requested a dismissal of the claims made or, alternatively, relief on its third-party claim against third-party Respondent Ballard in the event an award is entered in favor of the Claimant against Respondent First Hanover.

Respondent Societe Generale requested a dismissal of the Claim.

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 NASD Regulation, Inc.

The arbitration panel reviewed and considered Respondent Societe Generale's Motion to Dismiss and Claimant's Response thereto and on April 22, 1997 granted the Motion to Dismiss, without prejudice.

On November 11, 1997 NASD Regulation, Inc. received a Stipulation of Dismissal, without prejudice, of Third-Party Respondent Joseph Ballard executed by the parties.

Based upon the foregoing, the arbitration panel did not reach any determination with respect to Respondent Societe Generale and third-party Respondent Joseph Ballard.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing and post hearing submissions (if any), the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent First Hanover is found liable and shall pay to the Claimant the sum of \$24,000.00.
2. Respondent First Hanover shall pay to the Claimant the sum of \$983.34 representing the following: the claim filing fee of \$150.00; the hearing session deposit of \$500.00; and, the additional hearing deposit of \$333.34 previously paid by the Claimant to NASD Regulation, Inc.

FORUM FEES

Pursuant to Rule 10332 (c) of the Code of Arbitration Procedure ("Code"), the arbitration panel has assessed forum fees in the amount of \$2,500.00 (one (1) pre hearing conference (panel) x \$500.00 + four (4) hearing sessions x \$500.00).

1. Respondent First Hanover is assessed forum fees in the amount of \$2,500.00 for which NASD Regulation, Inc. shall retain the \$833.34 previously deposited by the Claimant in partial satisfaction thereof leaving a balance due to NASD Regulation, Inc. of \$1,666.66.
2. NASD Regulation, Inc. shall retain the claim filing fee of \$150.00 paid by the Claimant.
3. Respondent First Hanover shall pay to NASD Regulation, Inc. \$500.00 which represents the claim filing fee for the third-party claim.
4. Respondent First Hanover shall pay to NASD Regulation, Inc. the member surcharge of \$300.00 pursuant to Rule 10333 of the Code.
5. Respondent Societe Generale shall pay to NASD Regulation, Inc. the member surcharge of \$300.00 pursuant to Rule 10333 of the Code.

Fees are payable to National Association of Securities Dealers Regulation, Inc.

ARBITRATION PANEL

Concurring Arbitrators' Signatures

 /s/
Myron Dunay, Esq.

Public/Chairperson

 /s/
Arthur J. Leibell, Esq.

Public/Panelist

 /s/
James D. McDonald

Industry/Panelist

Date of Decision: December 8, 1997