

NASD REGULATION, INC.
AWARD

In the Matter of the Arbitration Between

Name of Claimant

Gregory R. Doane

vs.

Case No.
97-00077

Name of Respondents

H.G.I.
Steven Arevalo
Mark Hanna
John Bosco

REPRESENTATION

For Claimant Gregory R. Doane ("Doane") appeared Dominick J. Porto, Esq., a sole practitioner with offices located in New York, New York.

Respondent H.G.I. ("H.G.I.") was not represented at the hearing.

For Respondent Steven Arevalo ("Arevalo") appeared Michael Finkelstein, a sole practitioner with offices located in New York, New York.

For Respondent Mark Hanna ("Hanna") appeared Gary Hanna, Esq., located in New York.

Respondent John Bosco ("Bosco") did not enter an appearance in this matter.

CASE INFORMATION

Doane's Statement of Claim was filed on December 13, 1996.

Doane's Amended Statement of Claim was filed on September 10, 1997.

Doane's Submission Agreement was signed on December 31, 1996.

H.G.I. and Arevalo's Joint Statement of Answer was filed on March 10, 1997.

H.G.I.'s Submission Agreement was signed on January 21, 1997.

Arevalo's Submission Agreement was signed on March 6, 1997.

Hanna's Statement of Answer was filed on April 3, 1998.

Hanna's Submission Agreement was signed on March 12, 1998.

Bosco did not file a Statement of Answer or a Submission Agreement.

HEARING INFORMATION

Hearing Dates/Sessions:

July 29, 1998

Two Sessions

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

CASE SUMMARY

Doane alleged that, on October 28, 1996, Arevalo sold 32,900 shares of Checkers Drive In Restaurants ("CHKR") and purchased 27,000 shares of Touchstone Applied Science Associates ("TASA"), without Doane's authorization or consent and contrary to his instructions. Doane contended that H.G.I. is a market maker for TASA. Doane asserted that he tried numerous times to contact Arevalo. Doane alleged that when he reached Arevalo, Arevalo tried to convince him to hold the TASA stock, and refused to reverse the unauthorized transaction. Doane asserted that H.G.I. failed to supervise Arevalo and has failed to deal fairly and properly with Doane. Doane alleged that Hanna and Bosco, in their capacity as principals of H.G.I., intentionally and fraudulently authorized Arevalo to execute unauthorized transactions in Doane's account and deliberately refused to reverse those unauthorized transactions. Doane further alleged all Respondents violated RICO laws.

H.G.I. and Arevalo maintained that Doane was an experienced and sophisticated investor. H.G.I. and Arevalo further maintained that Doane transferred in the shares of CHKR and instructed Arevalo to sell them and purchase shares of TASA. H.G.I. and Arevalo contended that Doane faxed them a letter on October 31, 1996, in which he stated that "I understand I made the purchase of TAS Co. (TASA) @ .90 and it is trading now at .84." H.G.I. and Arevalo maintained that the transactions in Doane's account were authorized and/or ratified and in accordance with his instructions, and that any losses sustained were the result of market forces.

Hanna maintained that he was not licensed to supervise employees at H.G.I., nor did he engage in any such supervisory activity at the time of the transaction alleged in the Statement of Claim. Hanna further maintained that the transactions at issue were directed and confirmed by Doane. Hanna asserted that Doane was an experienced investor who assumed the risk of investing, and that any losses were due to market forces.

RELIEF REQUESTED

Doane requested the reversal of an unauthorized trade which occurred on October 28, 1996, interest on any relief granted, punitive damages, attorneys' fees in the amount of \$2,500.00, and such other relief which the panel deems appropriate.

H.G.I. and Arevalo requested that the Statement of Claim be dismissed in its entirety, and that they be awarded the costs incurred in this arbitration, including attorneys' fees and disbursements.

Hanna requested that the Statement of Claim be dismissed in its entirety and that he be awarded his costs incurred in this arbitration, including attorneys' fees and disbursements.

OTHER ISSUES CONSIDERED & DECIDED

The parties present at the hearing 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 original remains on file with the NASD.

At the hearing, Doane amended the relief sought from reversal of trade to the difference between the current price for CHKR and the highest price since October 28, 1996, less profit of approximately \$5,500.00 on the TASA trade.

The panel denied Respondent's motion for summary judgment.

The panel made the following determinations concerning Bosco who did not file a Statement of Answer or a Submission Agreement, and Bosco, and H.G.I. who did not appear at the hearing in this matter:

1. Pursuant to Rule 10101 of the *Code of Arbitration Procedure* (the "*Code*"), the arbitrators found subject matter jurisdiction over this entire controversy.
2. The panel found that Bosco was a person associated with a member of the NASD at the time this controversy arose. Accordingly, the panel found personal jurisdiction over Bosco pursuant to Rule 10301 of the *Code*.
3. The panel found that Bosco was required to file a Statement of Answer and 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 Bosco pursuant to Rule 10314 (a) of the *Code*.
4. In accordance with Rules 10310, 10315 and 10318 of the *Code*, the panel found that NASD Regulation provided Bosco, and H.G.I 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 Bosco, and H.G.I. whose absences were 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. Doane's claims are hereby denied in their entirety.
2. All requests for attorneys' fees are hereby denied.
3. Each party is to bear its own costs.
4. All other requests are hereby denied.

OTHER COSTS

Pursuant to Rule 10333 of the *Code*, H.G.I. has paid NASD Regulation, Inc. the \$200.00 member surcharge previously invoiced.

FORUM FEES

Pursuant to Rule 10332(c) of the *Code*, the arbitrators have determined that the NASD will retain the \$100.00 non-refundable filing fee deposited by Doane and have assessed the following Forum Fees:

2 Hearing sessions x \$400.00 = \$800.00

Total Forum Fees = \$800.00

1. Claimant be and hereby is liable for and shall pay the sum of \$400.00 representing one-half of the total forum fees assessed. Doane previously deposited \$400.00 with NASD Regulation, Inc., and, therefore, no remittance is required.
2. H.G.I. is liable for and shall pay the sum of \$100.00 representing one-eighth of the forum fees assessed.
3. Arevalo is liable for and shall pay the sum of \$100.00 representing one-eighth of the total forum fees assessed.
4. Hanna is liable for and shall pay the sum of \$100.00 representing one-eighth of the total forum fees assessed.
5. Bosco is liable for and shall pay the sum of \$100.00 representing one-eighth of the total forum fees assessed.

Fees are payable to NASD Regulation, Inc.

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ARBITRATION PANEL

Paul T. Green	-	Public Chairperson
Marvin H. Ginsky, Esq.	-	Public Arbitrator
Jeffrey F. Friedman	-	Industry Arbitrator

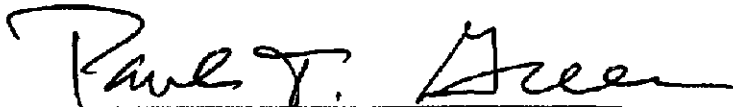
CONCURRING ARBITRATOR'S SIGNATURE



Paul T. Green
Chairperson - Public Arbitrator

Date of Decision: August 31, 1998

I, Paul T. Green, 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.



Paul T. Green

ARBITRATION PANEL

Paul T. Green	-	Public Chairperson
Marvin H. Ginsky, Esq.	-	Public Arbitrator
Jeffrey F. Friedman	-	Industry Arbitrator

CONCURRING ARBITRATOR'S SIGNATURE



Marvin H. Ginsky, Esq.
Public Arbitrator

Date of Decision: August 31, 1998

I, Marvin H. Ginsky, 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.

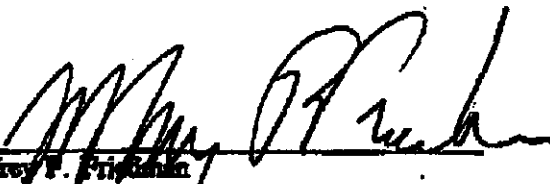


Marvin H. Ginsky

ARBITRATION PANEL

Paul T. Green	-	Public Chairperson
Marvin H. Ginsky, Esq.	-	Public Arbitrator
Jeffrey F. Friedman	-	Industry Arbitrator


CONCURRING ARBITRATOR'S SIGNATURE



Jeffrey F. Friedman
Industry Arbitrator

Date of Decision: August 31, 1998

I, Jeffrey F. Friedman, 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.



Jeffrey F. Friedman