

NASD REGULATION, INC. AWARD

In the Matter of the Arbitration Between

Name of Claimant

Charlotte Lebowitz

97-00137

Name of Respondents

Kyle Koellner
John Klausner
Ryan Beck & Company

REPRESENTATION

Claimant Charlotte Lebowitz ("Claimant") appeared pro se.

For Respondents Kyle Koellner ("Koellner"), John Klausner ("Klausner"), and Ryan Beck and Company ("Ryan Beck"), collectively referred to as "Respondents", appeared Simon S. Kogan, Esq., of the firm Simon S. Kogan, J.D., L.L.M., located in New York, New York.

CASE INFORMATION

Statement of Claim filed on: January 10, 1997.

Claimant's Submission Agreement signed on: January 21, 1997.

Respondents filed a Joint Statement of Answer on: March 17, 1997.

Respondent Koellner failed to file a properly executed Submission Agreement as required by Rule 10314(b) of the NASD Regulation, Inc. Code of Arbitration Procedure.

Respondent Klausner failed to file a properly executed Submission Agreement as required by Rule 10314(b) of the NASD Regulation, Inc. Code of Arbitration Procedure.

Respondent Ryan Beck's Submission Agreement signed on: April 7, 1997.

HEARING INFORMATION

Pre-Hearing Conference: August 20, 1997 One Session

Hearing Date/Sessions: September 19, 1997 Two Sessions

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

CASE SUMMARY

Claimant alleged that, on June 20, 1995, she purchased 100 shares of Micron Technology ("Micron") at \$54.75 a share. Claimant further alleged that, because her account executive was on vacation, on September 12, 1995, she placed a telephone call to Respondent Koellner and asked her to sell the shares. Claimant also alleged that at that time Koellner advised her not to sell because the value of the stock was going to rise. Claimant asserted that she held the stock but the price fell drastically. Claimant further alleged that in an attempt to mitigate her loss she bought 100 additional shares at \$41.125 a share and finally, on July 15, 1996, she sold her original 100 shares at \$19.00 a share. Claimant alleged that Lois Chernev ("Chernev"), her account executive, told her that she should not have followed Koellner's advice. Claimant further alleged that she reported the incident to the president of Ryan Beck, and that her call was returned by Respondent Klausner. Claimant also alleged that during this conversation Klausner informed her that he had spoken to Koellner and had determined that the complaint was without merit and that his investigation into the matter was closed.

Respondents denied that they failed to execute trades as requested by Claimant and that they failed to exercise due care and discretion in regard to Claimant's account. Respondents further denied that they breached any duty owed to Claimant or that they failed to diligently supervise a broker. Respondents also denied that they directed and effected unsuitable trades in Claimant's account or that they misrepresented or omitted to state material facts to Claimant with respect to the Micron trades. Respondents also denied that they acted in a negligent, malicious or reckless manner with regard to Claimant or Claimant's account.

RELIEF REQUESTED

Claimant requested damages in the amount of \$7,766.60 plus interest from September 12, 1995 and the costs of this arbitration.

Respondents requested that the Statement of Claim be dismissed in its entirety, plus attorneys' fees, costs and disbursements of the proceeding, plus any other relief that the panel deems just and fair.

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 of Claimant Lebowitz against Respondents Koellner, Klausner, and Ryan Beck are hereby dismissed.
2. Based on the merits of this case, the presiding arbitrator hereby orders the expungement by NASD Regulation, Inc. of any reference to this matter from the permanent CRD records of Kyle Koellner and John Klausner.
3. All further requests for relief are hereby denied.

FORUM FEES

Pursuant to Rule 10332(c) of the NASD Code of Arbitration Procedure, the arbitrator has determined that the NASD shall retain the \$75.00 non-refundable filing fee deposited by Claimant and have assessed the following Forum Fees:

1 Pre-hearing conference x \$200.00	=	\$200.00
2 Hearing sessions x \$200.00	=	\$400.00
Total Forum Fees	=	\$600.00

1. Claimant be and hereby is liable for the sum of \$300.00 representing one-half of the total amount of forum fees assessed. Claimant previously deposited \$200.00 with NASD Regulation, Inc. and, therefore, Claimant shall pay the balance of \$100.00.
2. Respondent Ryan Beck be and hereby is liable and shall pay the sum of \$300.00, representing one-half of the total forum fees assessed.
3. Respondent Ryan Beck be and hereby is liable for the sum of \$100.00 representing the Member Surcharge. Respondent Ryan Beck deposited \$100.00 with the NASD, and therefore, does not owe the Member Surcharge.

Fees are payable to NASD Regulation, Inc..

ARBITRATOR'S SIGNATURE



Robert Seaman, Esq.
Public Arbitrator

I, Robert Seaman, 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.



Robert Seaman, Esq.

Date of Decision: January 22, 1998