

Award
NASD Regulation, Inc.

In the Matter of the Arbitration Between:

Milton Hirsch, (Claimant) vs. Hornblower & Weeks, (Respondent)

Case Number: 99-00152

Hearing Site: New York, NY

REPRESENTATION OF PARTIES

Claimant, Milton Hirsch, hereinafter referred to as "Claimant": Seth T. Taube, Esq., McCarter & English, LLP, Newark, NJ.

Respondent, Hornblower & Weeks, hereinafter referred to as "Respondent": Peter Campitiello, Esq., Spinelli & Associates, New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: January 12, 1999

Claimant signed the Uniform Submission Agreement: January 7, 1999

Statement of Answer and Counterclaim filed by Respondent on or about: February 3, 1999

Respondent signed the Uniform Submission Agreement: February 7, 1999

CASE SUMMARY

Claimant alleged that, subsequent to his resignation, Respondent's response to Question No. 15 on the "Uniform Termination Notice of Securities Industry Regulation" Form U-5 and submitted Disclosure Reporting Page were false and defamatory.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses: Claimant allegedly participated in unauthorized trades; the information submitted by it was truthful; Respondent's communication to the NASD was qualifiedly privileged; and, Claimant failed to assert a cause of action for which relief can be granted.

In its Counterclaim, Respondent alleged that the Claimant engaged in unauthorized trading and violated its internal policies thereby causing it to lose in excess of \$120,000.00.

RELIEF REQUESTED

Claimant requested: an order compelling Respondent to amend Question No. 15 on his Form U-5; compensatory damages; reasonable representation fees and costs; and, such other relief as the arbitration Panel may deem just and proper.

Respondent requested that the Statement of Claims be dismissed, allowing the Claimant's Form U-5 to remain unaffected; and, attorneys' fees, filing fees, costs and disbursements.

In the Counterclaim, Respondent requested: compensatory damages in the amount of \$120,000.00; punitive damages; attorneys' fees, filing fees, costs and disbursements; and, any other and further relief as the Panel deems proper.

OTHER ISSUES CONSIDERED AND 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.

During the hearing, Claimant made a motion to exclude Respondent's Exhibit #2 based on privilege. The Panel denied the motion.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent is hereby ordered to amend the Form U-5 for Milton Hirsch filed by Hornblower & Weeks dated 10/8/98 and also noted as Transaction # 101335-28198. Respondent shall change Question #15 from "Yes" to "No" and delete all references to that Question on page 3 of this same form.
2. Respondent's Counterclaim is denied in its entirety.
3. All other requests for relief are denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Regulation, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$ 500.00
Counter claim filing fee	= \$ 500.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated person at the time of the event giving rise to the dispute. In this matter, Hornblower & Weeks is a party.

Member surcharge	= \$1,200.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$2,500.00

Adjournment Fees

Adjournments requested during these proceedings:

November 1 and 2, 1999, adjournment by Claimant	= \$ 600.00
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Forum Fees and Assessments

The Panel assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing sessions with Panel x \$750.00	= \$ 750.00
Pre-hearing conference: July 12, 1999	1 session

Four (4) Hearing sessions x \$750.00	= \$3,000.00
Hearing Dates: November 22, 1999	2 sessions
November 23, 1999	2 sessions

Total Forum Fees	= \$3,750.00
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1. The Panel has assessed \$1,875.00 of the forum fees against Claimant.
2. The Panel has assessed \$1,875.00 of the forum fees against Respondent.

Fee Summary

1. Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$ 500.00
Adjournment Fee	= \$ 600.00
<u>Forum Fees</u>	<u>= \$1,875.00</u>
Total Fees	= \$2,975.00
<u>Less payments</u>	<u>= \$1,500.00</u>
Balance Due NASD Regulation, Inc.	= \$1,475.00

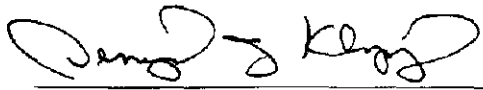
2. Respondent be and hereby is solely liable for:

Counterclaim Filing Fee	= \$ 500.00
Member Fees	= \$4,300.00
<u>Forum Fees</u>	<u>= \$1,875.00</u>
Total Fees	= \$6,675.00
<u>Less payments</u>	<u>= \$4,950.00</u>
Balance Due NASD Regulation, Inc.	= \$1,725.00

All balances are due and payable to NASD Regulation, Inc.

Concurring Arbitrators' Signature(s)

I, the undersigned arbitrator, 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.



Denzil J. Klippel
Public Arbitrator, Presiding Chair

12/29/99
Signature Date

Sandra D. Parker, Esq.
Public Arbitrator

Signature Date

Robert Bennett
Industry Arbitrator

Signature Date

December 29, 1999
Date of Service (For NASD office use only)

Concurring Arbitrators' Signature(s)

I, the undersigned arbitrator, 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.

Denzil J. Klippel
Public Arbitrator, Presiding Chair

Signature Date

Sandra D. Parker, Esq.
Public Arbitrator

Signature Date

Robert Bennett
Robert Bennett
Industry Arbitrator

12/23/99
Signature Date

December 29, 1999
Date of Service (For NASD office use only)