

NASD REGULATION, INC.
AWARD

In the Matter of the Arbitration Between

Name of Claimants

Myer H. Evans
Helen U. Evans

99-00351

Name of Respondents

Klein Maus and Shire, Inc.
Michael Gross

REPRESENTATION

For Claimants Myer H. and Helen U. Evans ("Claimants") appeared Richard F. Market, Esq., of the law firm Whitman Breed Abbott & Morgan LLP, located in New York, New York.

Respondent Klein Maus and Shire, Inc. ("Klein") did not enter an appearance in this matter.

Respondent Michael Gross ("Gross") did not enter an appearance in this matter.

CASE INFORMATION

Claimants' Statement of Claim was filed on January 25, 1999.

Claimants' Submission Agreement was signed on February 23, 1999.

Respondent Klein did not file a Statement of Answer or sign a submission agreement.

Respondent Gross did not file a Statement of Answer or sign a Submission Agreement. on

HEARING INFORMATION

Hearing Date/Session: June 2, 1999 - 1 session

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

CASE SUMMARY

Claimants alleged they maintained a joint account with Klein, that they used principally to hold equity securities. Claimants asserted that they gave no authority to Respondents to effect trades in their accounts without prior authorization. Claimant's contended that, without authorization, respondents sold their entire position in Lucent and purchased shares of Dectron, a thinly traded stock in which Klein was a market maker. Claimants further alleged that Respondents acknowledged the sale of Lucent and the purchase of Dectron as unauthorized and promised to reverse the transactions but failed to do so.

RELIEF REQUESTED

Claimants requested compensatory damages in an amount not less than \$40,000.00, punitive damages in an amount not less than \$250,000.00, attorneys fees, costs in this proceeding, and such other and further relief as the arbitrators may deem just and proper.

OTHER ISSUES CONSIDERED & DECIDED

Claimants, the only parties to attend 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, Claimants have agreed to receive conformed copies of the Award while the original remains on file with the NASD.

The panel made the following determinations concerning Klein and Gross who did not file a Statement of Answer or a Submission Agreement and 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 Klein was a member of the NASD and Gross was a person associated with a member of the NASD at the time this controversy arose. Accordingly, the panel found jurisdiction over Klein and Gross pursuant to Rule 10301 of the Code.
3. The panel found that Klein and Gross were required to file Statements of Answer and Submission Agreements 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 Klein and Gross pursuant to Rule 10314(a) of the Code.
4. In addition, in accordance with Rules 10310, 10315 and 10318 of the Code, the panel found that NASD Regulation provided Klein and Gross 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 Klein and Gross 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. Respondents Klein and Gross are liable and shall pay to Claimants the sum of \$45,000.00 in compensatory damages;
2. Respondents Klein and Gross are liable and shall pay to Claimants the sum of \$100,000.00 in punitive damages. Punitive damages are awarded pursuant to Mastrobuono v. Shearson Lehman Hutton, Inc. 812 F. Supp. 845 (N.D. Ill. 1993);
3. Claimants request for attorneys fees as well as all other relief requests are hereby denied.

OTHER COSTS

Pursuant to Rule 10333 of the Code of Arbitration Procedure Klein shall pay to NASD Regulation, Inc. the \$1,500.00 past due member surcharge, the \$600.00 past due pre-hearing process fee, and the past due \$2,500.00 hearing process fee, all previously invoiced.

FORUM FEES

Pursuant to Rule 10332(c) of the NASD Regulation Code of Arbitration Procedure, the arbitrators have determined that the NASD will retain the \$200.00 non-refundable filing fee deposited by Claimant and have assessed the following Forum Fees:

1 hearing session X \$750.00	=	\$750.00
Total Forum Fees	=	\$750.00

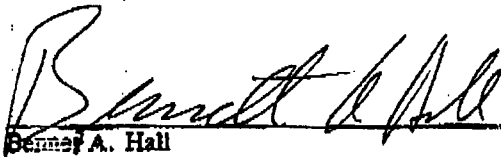
Respondents Klein, and Gross are liable and shall pay the NASD Regulation Inc. the sum of \$750.00 representing the total amount of forum fees assessed.

Fees are payable to NASD Regulation, Inc.

ARBITRATION PANEL

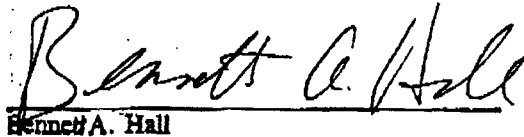
Bennet A. Hall	•	Public Chairperson
Lawrence S. Brick, Esq.	-	Public Arbitrator
Dennis C. Cronin	-	Industry Arbitrator

CONCURRING ARBITRATOR'S SIGNATURE


Bennet A. Hall

Date of decision: July 14, 1999

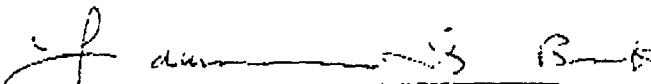
I, Bennett A. Hall, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.


Bennet A. Hall

ARBITRATION PANEL

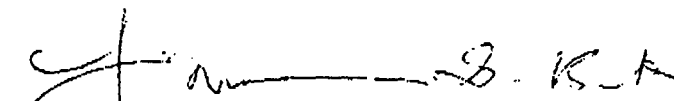
Bennet A. Hall	-	Public Chairperson
Lawrence S. Brick, Esq.	-	Public Arbitrator
Dennis C. Cronin		Industry Arbitrator

CONCURRING ARBITRATOR'S SIGNATURE


Lawrence S. Brick, Esq.

Date of decision: July 14, 1999

I, Lawrence S. Brick, 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.


Lawrence S. Brick, Esq.