

Award
NASD Dispute Resolution

NASD Dispute Resolution
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In the Matter of the Arbitration Between:

Name of the Claimants

Tsai-Hsien Lee and Chao-& Tsu Lee

Case Number: 99-01721

Name of the Respondents

WMA Securities, Inc. and
Shan Guo

Hearing Site: Dallas, Texas

NATURE OF DISPUTE

Customer v. Member Firm and Associated Person

REPRESENTATION OF PARTIES

Claimants Tsai-Hsien Lee and Chao-& Tsu Lee, hereinafter collectively referred to as "Claimants": Appeared pro se.

Respondent WMA Securities, Inc., hereinafter referred to as "WMA": Anthony G. Stergio, Esq. of the firm of McDaniel & Allen, located in Houston, Texas.

Respondent Shan Guo, hereinafter referred to as "Guo": E. Steve Watson, Esq., located in Carrollton, Texas.

CASE INFORMATION

Statement of Claim filed: April 12, 1999.

Claimants signed the Uniform Submission Agreement: May 17, 1999.

Amendment to Claim Removing Respondents filed: September 19, 1999.

Motion to Dismiss, or in the Alternative, Statement of Answer filed by Respondent WMA on or about: December 10, 1999.

Respondent WMA did not file a signed Uniform Submission Agreement.

Statement of Answer filed by Respondent Guo on or about: November 8, 1999.

Respondent Guo did not file a signed Uniform Submission Agreement.

Respondent WMA's Motion to Dismiss filed: March 10, 2004.

Supplement to Respondent WMA's Motion to Dismiss filed: July 28, 2004.

Notice of Permanent Injunction filed by Respondent Guo on: August 23, 2004.

Supplement to Notice of Permanent Injunction filed by Respondent Guo on: August 25, 2004.

Claimant's Response to Respondent WMA's Motion to Dismiss filed on or about: January 4, 2005.

CASE SUMMARY

Claimants asserted the following causes of action: breach of contract, unauthorized trading and misrepresentation. This causes of action related to various transactions in common stocks and use on margin in the Claimants' accounts.

Unless specifically admitted in its Answer, Respondent WMA denied the allegations made in the Statement of Claim and asserted the following defenses:

1. Other than a single purchase that is not at issue in this case, Claimants never effected any securities transactions through WMA;
2. The claims are barred by applicable statutes of limitations; and,
3. The claims are barred by Claimants' own conduct pursuant to which they ratified Guo's conduct and waived any resulting objections.

Unless specifically admitted in its Answer, Respondent Guo denied the allegations made in the Statement of Claim and asserted the following defenses:

1. This claim is not subject to binding arbitration because Guo never agreed in writing that such forum would be the exclusive means of dispute resolution; and,
2. If binding arbitration is required, NASD Dispute Resolution is not the correct forum.

RELIEF REQUESTED

Claimants requested:

Compensatory Damages	\$162,782.36
Punitive Damages	\$325,564.72
Attorneys' Fees	Unspecified Amount
Other Costs	As permitted under the contract law and NASD Rules
Other Monetary/Non-Monetary Relief if any:	As permitted under the contract law and NASD Rules.

Respondent WMA requested that the claim be dismissed and that WMA be awarded its costs and such other relief to which it may be entitled.

Respondent Guo requested that the arbitration against him be dismissed.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents WMA and Guo did not file with NASD Dispute Resolution, a properly executed submission to arbitration, but are required to submit to arbitration pursuant to the Code and are bound by the determination of the Panel on all issues submitted.

By amendment filed on or about September 19, 1999, Claimants withdrew claims against the following named Respondents:

1. E-Trade Securities, Inc.;
2. Nations Securities;
3. John Fletcher; and,
4. Herzog Heine Geduld, Inc.

Pursuant to this panel's order of December 15, 2004, the panel met in telephonic hearing on January 18, 2005 at 10:00 a.m. CDT to consider Respondent WMA Securities, Inc.'s (WMA's) Motion To Dismiss (on the basis of the doctrine of *res judicata*) the claims of Tsai-Hsien Lee and his wife Chao-Tsu Lee. Appearing in the conference call were Mr. Tsai-Hsien Lee acting *pro se* for himself and his wife Chao-Tsu Lee, and Mr. Anthony G. Stergio (of McDaniel & Allen) for Respondent WMA. WMA is the only remaining Respondent in this arbitration proceeding.

Participating in the conference were panelists Charles A. Joplin, Robert K. Hedrick and Edmund R. Yates. Mark E. Nowicki, Senior Attorney, appeared for NASD Dispute Resolution.

Respondent spoke in support of its Motion To Dismiss. The opposition was presented by Mr. Tsai-Hsien Lee for himself and his wife. Various questions were addressed by the panel to and answered by Claimants or Respondent. The arguments were closed by the panel after the parties each agreed that ample time had been granted for such arguments.

The Panel specifically finds as follows:

1. This arbitration was filed in August 1999. At the Initial Pre Hearing Conference the arbitration hearing was set for October 17-18, 2000.
2. Shortly thereafter, the Claimants and Respondents requested and were granted a postponement, the order for same (October 14, 2000) reciting that "The new hearing date will be decided in a telephone conference call which will conducted at the earliest possible date."
3. In May 2000 Claimant Tsai-Hsien Lee filed a lawsuit in the 44th District Court, Dallas County, Texas against Respondent Shan Guo, based apparently on the same set of facts as detailed by Claimants in this arbitration. The 44th District Court, on October 14, 2000, temporarily enjoined Mr. Lee from pursuing his arbitration claim against Shan Guo. (On October 31, 2000, NASD Dispute Resolution inactivated the arbitration case). After a trial on the merits, Tsai-Hsien Lee was permanently enjoined by the 44th District Court from pursuing his arbitration claim in the NASD forum against Shan Guo. A copy of such judgment

was attached to Respondent's Motion to Dismiss, as were the court's findings of fact and conclusions of law with respect to Mr. Lee's claim. Apparently this Order was never appealed.

4. In February 2002, Mr. Lee, acting *pro se* for his wife Chao-Tsu Lee sued a number of entities, WMA among them, based upon the same transactions that are the subject of this arbitration. A copy of Mr. Lee's petition, filed in the 162nd District Court of Dallas County, Texas, as well as a copy the Court's Order (dated October 10, 2002) dismissing with prejudice Mrs. Lee's claims were attached to Respondent's Motion to Dismiss. Apparently this Order was never appealed.
5. The postponement of this arbitration (paragraph # 3 above) continued inactive until March 10, 2004, when counsel for WMA Securities, Inc. filed a motion to dismiss the arbitration for want of prosecution. There was no response by claimants to this motion and, at NASD's request the panel agreed to four dates to hear this motion. The panel subsequently set a hearing on December 15, 2004 that was postponed to the date of the instant hearing to give the Panel opportunity to consider the detailed pleadings filed by Claimant and Respondent WMA Securities, Inc.

The Panel, having considered such pleadings, as well as the arguments from the parties referenced above, unanimously agrees that Respondent WMA's Motion To Dismiss should be granted.

AWARD

After considering the pleadings and arguments presented by the parties, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. The Motion To Dismiss is granted and Claimant's claim against Respondent WMA Securities, Inc. is dismissed with prejudice;
2. Pursuant to the permanent injunction entered by the court regarding the claim against Respondent Shan Guo, the arbitration against Guo is stayed by court order and the Panel takes no further action against Shan Guo;
3. The parties shall bear their own costs of arbitration, including any attorneys' fees, except for those sums specifically ordered below; and,
4. Any and all relief not specifically addressed herein,[including punitive damages, is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee

= \$ 300.00

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 events giving rise to the dispute. Accordingly, WMA Securities, Inc. is a party and the following member fees are assessed:

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

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

October 17 and 18, 2000 adjournment by Respondent WMA	= \$ 1,125.00
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Forum Fees and Assessments

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

Three (3) Pre-hearing sessions with Panel @ \$1,125.00	= \$ 3,375.00
Pre-hearing conferences:	
May 5, 2000	1 session
December 15, 2004	1 session
January 18, 2005	1 session
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Total Forum Fees	= \$ 3,375.00

The Panel has assessed \$1,125.00 of the forum fees to Claimants Tsai-Hsien Lee and Chao-& Tsu Lee, and assessed the remaining \$2,250.00 of the forum fees to Respondent WMA Securities, Inc.

SEE SUMMARY

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 1,125.00
Total Fees	= \$ 1,425.00
Less payments	= \$ 1,425.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent WMA Securities, Inc. is solely liable for:

Member Fees	= \$ 4,600.00
Adjournment Fee	= \$ 1,125.00
Forum Fees	= \$ 2,250.00
Total Fees	= \$ 7,975.00

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Less payments	= \$4,600.00
Balance Due NASD Dispute Resolution	= \$3,375.00

All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Edmund R. Yates, Esq. - Public Arbitrator, Presiding Chairperson
Charles A. Joplin, Esq. - Public Arbitrator
Robert K. Hedrick - Non-Public Arbitrator

Concurring Arbitrators' Signatures

Edmund R. Yates, Esq.
Public Arbitrator, Presiding Chairperson

1-26-05
Signature Date

Charles A. Joplin, Esq.
Public Arbitrator

Signature Date

Robert K. Hedrick
Non-Public Arbitrator

Signature Date

Date of Service (For NASD Dispute Resolution office use only)

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<u>Less payments</u>	<u>= \$ 4,600.00</u>
Balance Due NASD Dispute Resolution	= \$ 3,375.00

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Robert K. Hedrick - Non-Public Arbitrator

Concurring Arbitrators' Signatures

Edmund R. Yates, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Charles A. Joplin
Charles A. Joplin, Esq.
Public Arbitrator

1/27/05
Signature Date

Robert K. Hedrick
Non-Public Arbitrator

Signature Date

1/31/05 llm
Date of Service (For NASD Dispute Resolution office use only)

Less payments	= \$ 4,600.00
Balance Due NASD Dispute Resolution	= \$ 3,375.00

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Public Arbitrator

Signature Date

Robert K. Hedrick

Robert K. Hedrick
Non-Public Arbitrator

1-31-05
Signature Date

Date of Service (For NASD Dispute Resolution office use only)