

AWARD
- NASD Regulation, Inc.

In the Matter of the Arbitration Between

Name of Claimant

Joseph Huang

and

99-04201
Minneapolis, Minnesota

Name of Respondent

Scottsdale, Securities, Inc.

REPRESENTATION OF PARTIES

Joseph Huang ("**Claimant**") was represented by John A. Murray, Esq., Sjoberg & Tebelius, P.A., Woodbury, Minnesota.

Scottsdale, Securities, Inc. ("**Respondent**") was represented by Mark Finnegan and Jim Sheehan, Scottsdale Securities, Inc., St. Louis, Missouri.

CASE INFORMATION

The Statement of Claim was filed on or about September 13, 1999. Submission Agreement of Claimant Joseph Huang was signed on September 8, 1999.

Statement of Answer was filed by Respondent Scottsdale, Securities, Inc. on or about December 7, 1999. Submission Agreement of Respondent Scottsdale, Securities, Inc. was signed on December 7, 1999 by Mark Finnegan.

CASE SUMMARY

Claimant submitted the following summary:

Claimant alleges that Respondent negligently handled his account and engaged in unauthorized trading on his account and failed to give proper notification to Claimant of the actions which Respondent intended to take on Claimant's account. Specifically, Claimant alleges that Respondent mishandled the sale and subsequent purchase of 500 IBM shares from Claimant's account in connection with five IBM Put Options which Claimant had earlier purchased through Respondent. Claimant did not own 500 IBM shares at the time of Respondent's unauthorized sale on April 19, 1999, and Respondent later covered

this sale by purchasing 500 shares of IBM stock on Claimant's account on April 29, 1999 rather than immediately covering the sale on April 19, 1999. Because the price of IBM stock had risen in the ten days between the two transactions, Respondent charged Claimant's account for the difference between the sale and purchase price, which was \$15,133.17.

Respondent denies the allegations set forth in Claimant's Statement of Claim. Specifically, Respondent states that Respondent is a discount brokerage firm which does not provide advice, recommendations or investment strategies to its customers, such as Claimant and that Respondent was under no obligation to convey any information to Claimant regarding his Options positions. Respondent states that Claimant had given Respondent the necessary authority to, as in the present case, buy and sell securities on his account.

Respondent submitted the following summary:

Mr. Huang purchased Put contracts on IBM, which expired in the money. He was assigned on those 5 contracts. He was credited the appropriate funds with an accompanying 500 share short position. Mr. Huang did not have 500 shares to deliver Scottsdale Securities and was bought in on April 29th. Since the price of IBM rose above the price he received from the contracts, Mr. Huang lost \$15,133. Mr. Huang believes Scottsdale Securities was responsible for the loss.

Scottsdale Securities followed proper procedure and assigned the contracts to Mr. Huang's account. Mr. Huang agreed contractually he was responsible for knowing his investments and meeting his obligations under the brokerage agreement. Scottsdale did not error [sic] by not calling the customer about the 500 shares owed on the option contract. Scottsdale appropriately bought the position in and is not responsible for the loss.

RELIEF REQUESTED

Claimant requests an award of compensatory damages in the amount of \$15,133.17 for the direct loss to him caused by Respondent's unauthorized and negligent handling of the sale and purchase of the 500 IBM shares; additional compensatory damages of \$2,004.51 for lost profits by Claimant on the original Put Options, which profits, Claimant would have enjoyed had Respondent correctly handled this account; punitive damages of \$2,000; attorney's fees of \$3,100 and all of Claimant's costs and disbursements incurred in this arbitration, including Claimant's filing fee of \$125 and forum fees of \$450.

Respondent requests dismissal of the claims asserted against it on the merits in addition to reasonable expenses necessary to attend the hearing.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed to receive conformed copies of the award while the original(s) remain on file with the NASD Regulation, Inc. Office of Dispute Resolution (the "NASD").

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. The claims asserted in this matter shall be and hereby are dismissed, Claimant is not entitled to the recovery sought.
2. That to the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto are denied with prejudice.
3. Other than the Forum Fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including but not limited to attorneys fees.

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 = \$125.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm is Scottsdale, Securities, Inc.

Member surcharge = \$400.00

Forum Fees and Assessments

The Arbitration Panel assesses forum fees for each hearing session conducted. A hearing 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:

One (1) Pre-hearing session(s) with a single arbitrator x \$450.00	= \$ 450.00
Pre-hearing conference(s): February 22, 2000 1 session	
Two (2) Hearing sessions x \$450.00	= \$ 900.00
Hearing Date(s): March 31, 2000 2 sessions	
Total Forum Fees	= \$1,350.00

The Arbitrator has assessed \$1,350.00 of the forum fees to Scottsdale, Securities, Inc.

Fee Summary

Claimant, Joseph Huang, shall be and hereby is liable for:

Initial Filing Fee	= \$ 125.00
<u>Forum Fees</u>	= \$ 0.00
Total Fees	= \$ 125.00
<u>Less payments</u>	= \$ 575.00
Balance refunded by NASD Regulation, Inc.	= \$ 450.00

Respondent, Scottsdale, Securities, Inc., shall be and hereby is liable for:

Member Fees	= \$ 400.00
<u>Forum Fees</u>	= \$1,350.00
Total Fees	= \$1,750.00
<u>Less payments</u>	= \$ 400.00
Balance Due NASD Regulation, Inc.	= \$1,350.00

All balances are due to NASD Regulation, Inc.

Dated:

/s/ Joan L. Volz

Joan L. Volz

Public Arbitrator, Presiding Chair

April 10, 2000

NASD Regulation, Inc. Office of Dispute Resolution
 Arbitration No. 99-04201
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 Public Arbitrator, Presiding Chair

Dated:

10 April 00