

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration between

Vanessa L. Menke

Claimant

89-03494

and

Power Securities Corporation, Jeff Brown,
Sheppard Shapiro, Richard Marchese, Eric
Montchecourt, Orville Sandberg, Rafco and
Joseph McDonough

Respondents

REPRESENTATION OF PARTIES

Claimant was represented by Jeffrey G. Brown, Esq. of Shannon Law Offices, Chicago, Illinois. Respondents Jeff Brown, Orville Sandberg and Sheppard Shapiro appeared pro se. Respondent Rafco was represented by Gene R. Thornton, Esq. of Hopper, Kanouff, Smith, Peryam & Terry, of Denver, Colorado. Respondents Powers Securities, Montchecourt and Marchese did not file any appearances.

CASE SUMMARY

In a Statement of Claim filed with the National Association of Securities Dealers, Inc. ("NASD") on or about December 13, 1989, Claimant Vanessa Menke ("Claimant") alleged that Respondent Sheppard Shapiro ("Shapiro") while employed by Respondent Power Securities ("Power Securities") sold stock in Genexus International and bought Davin Enterprises without permission upon the pretext that Shapiro could not reach the Claimant before undertaking the transactions. Additionally, Claimant alleged that 160,000 units of TV Net were sold without authorization.

In a Statement of Answer filed with the NASD on or about April 26, 1990 Respondent Jeff Brown ("Brown") alleged that he was acting in the scope of his employment and that he never offered to reverse the trade nor did he have authority to do so.

In a Statement of Answer filed with the NASD on or about April 26, 1990 Respondent Shapiro denied that he made an unauthorized purchase and alleged that the transaction was at the request of Claimant. Shapiro counterclaimed and alleged that the claim was frivolous.

In a Statement of Answer filed with the NASD on or about April 26, 1990, Respondent Joseph M. McDonough alleged that he did not fail to supervise any employees of Powers Securities or allow an unauthorized trade.

In a Statement of Answer filed with the NASD on or about April 26, 1990, Respondent Orville Sandberg requested that his name be removed from the arbitration because he had no knowledge of the transaction or circumstances regarding the transaction.

Respondents Powers Securities, Montchecourt and Marchese did not file written Answers to the Claim.

RELIEF REQUESTED

Claimants requested compensatory damages .83 cents per unit of TV Net, recovery of the commission charged, 10% interest, expenses, fees, attorney's fees, punitive damages, and compensation for her time.

Respondent Shapiro requested dismissal of the claim and an award of legal fees on his counterclaim. Respondent Brown requested dismissal of the claim. Respondent McDonough requested that the claim not include him. Powers Securities, Montchecourt and Marchese did not file written answers to the claim.

PROCEDURAL MATTERS

On February 21, 1991 and July 24, 1991 in Chicago, Illinois during a hearing lasting a total of three (3) sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on January 29, 1990 by Claimant Venessa L. Menke, on April 25, 1990 by Respondent Jeffrey Brown and on April 24, 1990 by Respondent Sheppard Shapiro.

Respondents Rafco, Montchecourt, Powers Securities, Sandberg and McDonough did not file with the NASD properly executed submissions to arbitration but are required to submit to arbitration pursuant to Section 12 of the NASD Code of Arbitration Procedure. McDonough, Sandberg and Rafco having answered the claim are bound by the determination of the arbitration panel on all issues submitted. Powers Securities and Montchecourt are also required to submit to arbitration

pursuant to Section 12 of the NASD Code and accordingly are bound by the panel's determination on all issues submitted.

The parties who appeared at 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, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with the NASD.

AWARD

The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has decided in full and final resolution of the issues submitted for determination as follows:

1. By stipulation entered into by and between the Claimant, RAFCO and Shapiro, the claim asserted against these Respondents by the Claimant is dismissed with prejudice;

2. Respondents Powers Securities and Montchecourt are jointly and severally liable for and shall pay to Claimant, the sum of Eight Thousand Four Hundred Twenty Dollars and no cents (\$8,420.00);

3. Interest at the rate of 5% per annum is assessed on the above sum from February 1989 to July 24, 1991;

4. Respondents Powers Securities and Montchecourt are jointly and severally liable for and shall pay to Claimant costs of \$1000.00;

5. Respondents Powers Securities and Montchecourt are jointly and severally liable for and shall pay to Claimant the sum of \$8,000 an attorney's fees. The panel makes this award under the Illinois Consumer Fraud Act;

6. Respondents Powers Securities and Montchecourt are jointly and severally liable for and shall pay to Claimant the sum of \$50,000 in punitive damages under the authority of the Illinois Consumer Fraud Act;

7. Claimant's claims asserted against Respondents Sandberg and McDonough are dismissed for lack of proof;

8. The claim asserted against Marchese is dismissed without prejudice due to lack of service of process; and

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the claim filing fee and hearing session deposit in the amount of \$700.00 previously deposited with the NASD by the Claimant. Respondents Powers Securities and Montchecourt are assessed and shall pay the NASD additional forum fees in the amount of \$1000.00.

Dated:

Kenneth C. Prince
Presiding Chairman
Public Arbitrator

John N. Chapin, Jr.

John N. Chapin, Jr.
Public Arbitrator

Phillip M. Petraitis
Industry Arbitrator

Date Served by NASD: 11-20-91

89-3494

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the claim filing fee and hearing session deposit in the amount of \$700.00 previously deposited with the NASD by the Claimant. Respondents Powers Securities and Montchecourt are assessed and shall pay the NASD additional forum fees in the amount of \$1000.00.

Dated:

Kenneth C. Prince
Presiding Chairman
Public Arbitrator

John N. Chapin, Jr.
Public Arbitrator

Phillip M. Petraitis
Industry Arbitrator

10/31/91

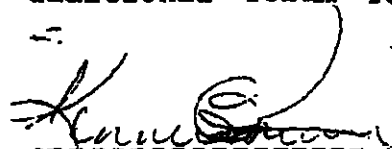
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Dated:

November 1, 1991



Kenneth C. Prince
Presiding Chairman
Public Arbitrator

John N. Chapin, Jr.
Public Arbitrator

Phillip M. Petraitis
Industry Arbitrator

Date Served by NASD: 11-20-91