

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between :
Stanley J. Sanders :
Claimant :
vs. : Case #88-00163
AWARD
Gladstone Securities, Inc., Adler, :
Coleman & Co., Inc. and Barton Bereck :
Respondents :

CASE SUMMARY

Claimant Stanley J. Sanders alleged that Respondent Gladstone Securities, Inc., acting through Respondent Barton Bereck, executed three unauthorized transactions in his securities account. Specifically, Claimant alleged that Respondent Bereck purchased 3,300 shares of United Shoppers of America, 4,000 shares of Robotool, Ltd., and sold 2,250 shares of Poseidan Pools of America all without the Claimant's authorization. Claimant also alleged that he informed Respondent Adler, Coleman & Co., Inc. that these transactions were executed without his authorization and should, therefore, be canceled. Claimant contended that Respondent Adler, Coleman refused to cancel these transactions and they subsequently sold both the 4000 shares of Robotool and the 3,300 shares of United Shoppers to cover the debit balance in Claimant's account created by the unauthorized purchase of the Robotool.

Respondent Barton Bereck contended that he informed the Claimant of the debit balance in his account, and assumed the Claimant would satisfy it. Respondent Bereck also maintained that the Claimant had given him the authority to execute certain transactions in his account without prior authorization. Respondent Bereck, therefore, alleged the trades now in dispute were all executed with the Claimant's authorization. Respondent Bereck also alleged that Respondent Adler, Coleman was negligent and should have "frozen" the Claimant's account when the debit balance was not satisfied. Moreover, Respondent Bereck alleged that Respondent Adler, Coleman should not have accepted nor processed trades in Claimant's account until after the debit balance was satisfied.

Respondent Adler, Coleman maintained that its function with respect to the Sander's account was merely to provide the mechanism through which Gladstone Securities cleared trades. Respondent Adler, Coleman contended that it was Gladstone's responsibility, not its own, to insure that the trades executed for the Claimant's account met with Claimant's prior approval.

Respondent Adler, Coleman alleged that it was fully authorized, pursuant to Regulation T, to sell the stock within the Claimant's account to cover the outstanding debit balance in the account. Respondent Adler, Coleman cross-claimed against Respondents Gladstone Securities and Barton Berek for indemnification of any award rendered in this arbitration, pursuant to the clearing agreement between Gladstone Securities and Adler, Coleman.

RELIEF REQUESTED

Claimant Stanley J. Sanders requested actual damages from Respondents Gladstone Securities and Barton Berek of \$41,500.00 and the losses resulting from the sale of the 2,250 shares of Poseidon Pools. Claimant requested actual damages from Respondent Adler, Coleman of \$41,500.00. Respondents Gladstone Securities, Inc. and Barton Berek requested dismissal of all claims made against them. Respondent Adler, Coleman requested dismissal of the Statement of Claim, and, if any award is rendered against them, that they be indemnified in full from Respondents Gladstone Securities and Barton Berek. Respondent Adler, Coleman also requested that their costs and reasonable attorney's fees be assessed against Respondents Gladstone Securities and Barton Berek.

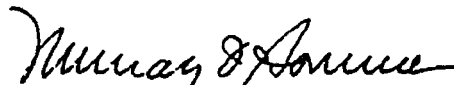
AWARD

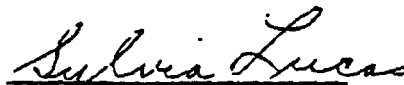
On October 20, 1989 and November 17, 1989 the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant Stanley J. Sanders on January 14, 1988 and by Respondents Adler, Coleman & Co., Inc. on March 31, 1988, Barton Berek on October 20, 1989 and Gladstone Securities, Inc. on October 20, 1989. The hearing was held at the offices of the National Association of Securities Dealers, Inc. in New York City, NY and consisted of four (4) hearing sessions. The arbitration panel having considered the pleadings, the testimony, and the evidence presented at the hearing has determined in full and final resolution of the issues submitted for determination as follows:

1. Respondents Gladstone Securities, Inc. and Barton Berek be and hereby are jointly and severally liable and shall pay to the Claimant Stanley J. Sanders the sum of Forty One Thousand Five Hundred Dollars and No Cents (\$41,500.00), with no interest.
2. All claims against Respondent Adler, Coleman & Co., Inc. be and hereby are dismissed in their entirety.
3. Respondent Adler, Coleman & Co., Inc.'s cross-claim against Respondents Gladstone Securities, Inc. and Barton Berek be and hereby is dismissed in its entirety.

4. The parties shall each bear their respective costs including attorney's fees.
5. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$400.00 filing fee previously deposited by the Claimant, and Respondents Gladstone Securities, Inc. and Barton Bereck be and hereby are liable and shall pay to the National Association of Securities Dealers, Inc. the sum of One Thousand Two Hundred Dollars and No Cents (\$1,200.00), as costs of the four (4) hearing sessions conducted in this matter.

ARBITRATORS CONCURRING


MURRAY I. SOMMER


SYLVIA LUCAS


LARRY H. IROM

DATED: December 13th, 1989