

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between)
)
Larry S. Norris,)
) Claimant,)
) Case #88-00727
vs.) Award
)
Barry LaChance and)
R.B. Marich, Inc.,)
) Respondents.)
)

CASE SUMMARY

This claim was filed with the NASD, Inc. on March 3, 1988. The hearing was conducted on July 19, 1989 in Tampa, Florida, with a total of two (2) hearing sessions. Claimant, Larry S. Norris ("Norris"), alleged that, based upon representations made by Respondent, Barry LaChance ("LaChance") that he had inside information that Vanter, Inc. was about to be bought out and that Vanter stock would increase in value, Claimant was induced into purchasing the stock which subsequently decreased in price and that Respondent, R. B. Marich, Inc. ("Marich"), is liable for its employees' alleged misrepresentations. Marich denied all of Claimant's allegations and alleged that any representations of the type alleged would have exceeded the scope of LaChance's employment and, therefore, Marich should not be held liable. LaChance denied liability alleging that he was merely reiterating what Marich's managers had told him. LaChance did not appear at the hearing.

RELIEF REQUESTED

Claimant requested damages in the amount of \$4,815.00 plus interest, attorney's fees, return of his deposit with the NASD, Inc. and other costs. Respondents requested dismissal of the claim.

AWARD

On July 19, 1989, the undersigned arbitrator heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant on February 19, 1988, and by Respondent, Marich, on April 15, 1988 and by Respondent, LaChance, on August 14, 1988. Having considered the pleadings, the testimony, and the evidence presented at the hearing, and LaChance neither appearing at the hearing nor seeking any adjournment thereof, notwithstanding his knowledge of this arbitration as evidenced in OTHER ISSUES, this arbitrator has determined in full and final resolution of the issues submitted for determination as follows:

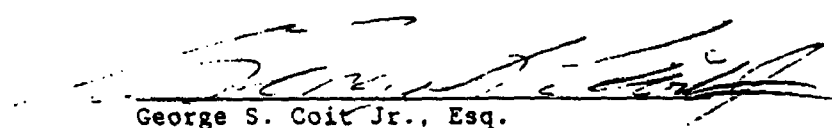
1. Respondents, LaChance and Marich, are hereby are jointly and severally, and shall pay to Claimant the amount of Five Thousand Three Hundred Forty Three and 10/100 (\$5,343.10) Dollars inclusive of interest at the requested rate of 6% per annum from September 1, 1987 to the date of the hearing.
2. Pursuant to Section 43 of the Code of Arbitration Procedure, Respondents, Marich and LaChance, are hereby assessed forum fees in the amount of Two Hundred and 00/100 (\$200.00) Dollars (\$100.00 x two sessions), for which they shall be, jointly and severally, liable. Respondents shall pay One Hundred and 00/100 (\$100.00) Dollars of this fee directly to the Claimant and the remaining One Hundred and 00/100 (\$100.00) Dollars shall be paid to the NASD, Inc. The National Association of Securities Dealers, Inc. shall retain the One Hundred and 00/100 (\$100.00) Dollar filing fee previously deposited by the Claimant.
3. Claimant's request for attorney's fees is hereby dismissed in all respects.
4. The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding.

OTHER ISSUES

1. Jurisdiction exists by virtue of the Form U-4 executed by Respondent, LaChance, and pursuant to Sections 12 and 13 of the NASD, Inc. Code of Arbitration Procedure.
2. Although the reasons are set forth in the record of proceedings for finding of adequate notice to LaChance, the reasons will again be set forth here. The NASD, Inc. has made every attempt to locate and serve LaChance with notice of this hearing as demonstrated by the following record evidence:
 - a) March 23, 1988, Service of Claim on LaChance at 600 Cleveland Street, Suite 700, Clearwater, FL 34615 by certified mail (while no receipt was returned to the NASD, Inc., neither was this mail ever returned as unclaimed, as evidenced by Arbitrator's Exhibit #2(a)).
 - b) April 18, 1988, Receipt of Uniform Submission Agreement with attached Statement of Answer signed by Barry LaChance (as evidenced by Arbitrator's Exhibit #2(b)).
 - c) Witness List submitted by Barry LaChance and dated April 16, 1988 (as evidenced by Arbitrator's Exhibit #2(c)).
 - d) December 20, 1988, Service of Notice of Hearing Situs sent by regular mail to LaChance's Clearwater address; returned to NASD, Inc. on January 4, 1989, marked "Attempted Not Known, Return to Sender" (as evidenced by Arbitrator's Exhibit #2(d)).

- e) January 31, 1989, Service of Confirmation Memo setting forth the date and situs of the hearing sent by certified mail to LaChance's Clearwater address; returned to the NASD, Inc. marked "Addressee Unknown, Return to Writer," (as evidenced by Arbitrator's Exhibit #2(e)).
- f) June 20, 1989, Service of Hearing Advance Sheet setting forth the date, time and location of hearing, sent by certified mail to LaChance's Clearwater address. Receipt returned on June 28, 1989, signed by Julie Brasier (sic) as agent (as evidenced by Arbitrator's Exhibit #2(f)).
- g) The NASD, Inc.'s CRD report printed on July 13, 1989, shows LaChance's address as 115 Aleta Drive, Bellaire Beach, FL 34635. Hearing Advance Sheet setting forth the date, time and location of the hearing was sent on that date by Federal Express Overnight Mail to that address. Federal Express did not call to inform that the notice was not deliverable (as evidenced by Arbitrator's Exhibit #2(g)).

ARBITRATOR CONCURRING



George S. Coit Jr., Esq.

Dated: August 14, 1989