

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between)
JEFFREY WOLFSON,)
Claimant,)
vs.) Case #89-00549
DOMINICK & DOMINICK, INC.,) Award
Respondent/Third Party)
Claimant)
vs.)
MAXWELL WOLFSON,)
Third Party Respondent.)

Heard before the members of the Arbitration Panel:

Marilyn B. Cane, Esq.
Mr. Harry Polansky
Mr. Douglas Delanoy, Jr.

CASE SUMMARY

This claim was filed with the NASD, Inc. on February 17, 1989. The hearing was conducted in Fort Lauderdale, Florida on December 15, 1989 with a total of two (2) sessions.

Claimant, Jeffrey Wolfson ("Wolfson"), alleged that Respondent, Dominick & Dominick, Inc. ("Dominick") made unauthorized use of funds deposited for the benefit of Claimant causing a loss to Claimant. Respondent denied all allegations of wrongdoing; alleged the affirmative defenses of: approval, authorization and ratification; waiver; estoppel; damages the result of a third party's acts and not caused by Dominick; unclean hands; negligence of Claimant, and failure to exercise due diligence. Respondent filed a third party claim against Maxwell Wolfson for unjust enrichment and unpaid debit balance. Third Party Respondent, Maxwell Wolfson, denied all allegations in the Third Party Claim.

RELIEF REQUESTED

Claimant requested damages in the amount of \$16,195.48 plus interest at the legal rate. Respondent, Dominick, requested judgement against Third Party Respondent, Maxwell Wolfson, in the amount of \$7,580.05, costs, interest and attorney's fees. Third Party Respondent, Maxwell Wolfson demanded arbitration and other relief.

AWARD

On December 15, 1989, the arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant on February 10, 1989, by Respondent, Dominick, on March 23, 1989, and by Third Party Respondent, Maxwell Wolfson, on August 8, 1989. 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. The parties 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 originals remain on file with the NASD, Inc.
2. Respondent, Dominick, is hereby liable and shall pay to Claimant the amount of Ten Thousand Six Hundred Thirty-Six and 80/100 (\$10,636.80) Dollars inclusive of interest.
3. Third Party Respondent, Maxwell Wolfson, is hereby liable and shall pay to Respondent/Third Party Claimant the amount of Seven Thousand Five Hundred Eighty and 05/100 (\$7,580.05) Dollars inclusive of interest.
4. Respondent's request for attorney's fees is denied.
5. Pursuant to Section 43 of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount of Eight Hundred and 00/100 (\$800.00) Dollars (\$400 X 2 sessions). Claimant is hereby assessed forum fees in the amount of Four Hundred and 00/100 (\$400.00) Dollars and Respondent, Dominick is hereby assessed forum fees in the amount of Four Hundred and 00/100 (\$400.00) Dollars payable to the National Association of Securities Dealers, Inc.. The NASD, Inc. shall retain the Four Hundred and 00/100 Dollar filing fee previously deposited by the Claimant with the NASD, Inc. in full satisfaction of his forum fees.
6. The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding.

OTHER ISSUES

None.

ARBITRATORS CONCURRING

Marilyn B. Cane, Esq.
Mr. Harry Polansky
Mr. Douglas Delanoy, Jr.

Received this 3rd day of January 1990.