

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

IN THE MATTER OF THE ARBITRATION BETWEEN :

Carmelo & Patricia Vitello :

CLAIMANTS :

Case #89-00563

vs. :

AWARD

First Fidelity Capital Corp. :
K. Nick Dusevic :
Michael Coulombre :

RESPONDENTS :

CASE SUMMARY

Claimants Carmelo & Patricia Vitello ("Vitello") alleged they were unsophisticated, inexperienced investors, and that the Respondents First Fidelity Capital Corp. ("First Fidelity"), K. Nick Dusevic ("Dusevic") and Michael Coulombre ("Coulombre") misrepresented to the Claimants the volatility of an over the counter stock, Creative Video Applications. Claimants alleged that this stock was highly speculative and unsuitable for them since they could not afford to lose their investment. Further, the Claimants alleged the Respondents misrepresented that the Claimants could cancel the trade if they desired, and that the Respondents have breached the fiduciary duty to deal fairly with the Claimants.

Respondent First Fidelity contended the investment was suitable pursuant to the information which appeared on the new account form signed by the Claimants. Respondent First Fidelity contended they always acted properly and should not be held accountable for losses sustained in the Claimants' account. Respondent Coulombre contended he told the Claimants that since they had agreed to purchase the stock, they should pay for the stock and not renege on the trade. Respondent Coulombre also contended he liquidated the Claimants' position in the stock pursuant to the Claimants' request. Respondent Dusevic denied all allegations made against him, and asserted a crossclaim against Respondents First Fidelity and Coulombre in which he alleged any liability to the Claimants was due to the acts and fraud of Respondents First Fidelity and Coulombre.

RELIEF REQUESTED

Claimants Vitello requested actual damages of \$16,000.00, plus interest and punitive damages of \$32,000.00. Respondents First Fidelity and Coulombre requested dismissal of the Statement of Claim in its entirety. Respondent Dusevic requested dismissal of the Statement of Claim in its entirety, and, pursuant to his crossclaim, requested judgment against Respondents First

Fidelity and Coulombre for any amounts owed to the Claimant, plus costs and attorney's fees.

AWARD

On February 13 and April 19, 1990, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimants Carmelo and Patricia Vitello on April 3, 1989, by Respondent First Fidelity Capital Corp. on June 12, 1989, by Respondent K. Nick Dusevic on May 3, 1989, and by Respondent Michael Coulombre on May 15, 1989. The hearings were conducted at the offices of the National Association of Securities Dealers, Inc. in New York City, New York and consisted of three (3) 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. Respondent First Fidelity Capital Corp. be and hereby is liable and shall pay to the Claimants Carmelo & Patricia Vitello the sum of Six Thousand Dollars and No Cents (\$6,000.00), inclusive of interest.
2. All claims against Respondent K. Nick Dusevic be and hereby are dismissed in their entirety.
3. All claims against Respondent Michael Coulombre be and hereby are dismissed in their entirety.
4. All crossclaims against Respondents First Fidelity Capital Corp. and Michael Coulombre be and hereby are dismissed in their entirety.
5. The parties shall each bear their respective costs including attorney's fees.
6. 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 Respondent First Fidelity Capital Corp. be and hereby is liable and shall pay to the National Association of Securities Dealers, Inc. the sum of Four Hundred Dollars and No Cents (\$400.00), Respondent K. Nick Dusevic be and hereby is liable and shall pay to the National Association of Securities Dealers, Inc. the sum of Two Hundred Dollars and No Cents, and Respondent Michael Coulombre be and hereby is liable and shall pay to the National Association of Securities Dealers, Inc. the sum of Two Hundred Dollars and No Cents (\$200.00), as costs of the three (3) hearing sessions conducted in this matter.

Dated: May 11, 1990

CONCURRING ARBITRATORS

Murray L. Sommer
MURRAY L. SOMMER

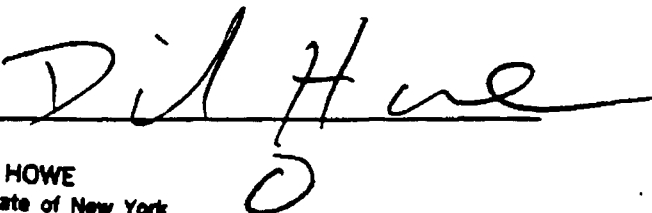
Arnold L. Goren
ARNOLD L. GOREN

Emil Spinelli
EMIL SPINELLI

STATE OF *New York*
COUNTY OF *New York*

S.S.:

On this *27th* day of *April*, 1990, before me personally appeared *Murray I. Sommer* to me known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same



DAVID HOWE
Notary Public, State of New York
No. 4827426, Rockland County
Term Expires *31 1990*

STATE OF *New York*
COUNTY OF *New York*

S.S.:

On this *2nd* day of *May*, 1990, before me personally appeared *Arnold L. Goren* to me known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same

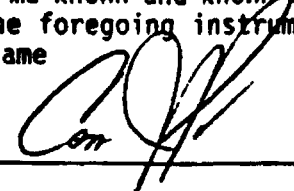


ADA MELOY
Notary Public, State of New York
No. 31-4603679
Qualified in New York County
Commission Expires *July 31, 1990*

STATE OF *New York*
COUNTY OF *New York*

S.S.:

On this *9th* day of *MAY*, 1990, before me personally appeared *Emil Spinelli* to me known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same



COSIMO J. PATTI
Notary Public, State of New York
No. 6124403948
Qualified in New York County
Commission Expires *March 30, 1992*