



N.A.S.D. AWARD

Arbitration

NATIONAL ASSOCIATION OF SECURITIES DEALERS

National Association of
Securities Dealers, Inc.
NASD Financial Center
33 Whitehall Street
New York, New York 10004

In the Matter of the Arbitration Between

Name of Claimant

Richard Severance

89-00719

Name of Respondents

Corna and Co., Inc.
Brad Solomon

Heard before:

Robert C. Devlin

Public Arbitrator

Bert C. Linder

Public Arbitrator

Robert A. Greenberg

Industry Arbitrator

Appearance of Representative:

William J. Clark

Claimant's Counsel

Brian E. Chorpenning

Respondent Corna & Co.'s Counsel

Brad Solomon

Pro Se Respondent
(only attended October 4, 1990 Hearing)

CASE SUMMARY

This claim was initiated by a Statement of Claim filed with the National Association of Securities Dealers, Inc. ("NASD") on March 13, 1989. Claimant Richard Severance ("Claimant"), alleged that Respondent Brad Solomon ("Solomon") made material misrepresentations and failed to disclose material facts to Claimant in order to induce Claimant to sell short stock in First World Cheese Corporation ("FWCC"). Claimant alleged he authorized Solomon to sell short 1000 shares of FWCC, but that without Claimant's authorization, Solomon sold 2000 units on Claimant's behalf. Claimant alleged that Solomon failed to disclose to him that each unit was composed of 2 shares and 1 warrant and that each warrant consisted of the right to purchase shares at \$2 1/2 until 1991. Claimant alleged that Solomon also failed to disclose that

FWCC retained the right to force conversion of the warrants if the common shares of the company sold at a price greater than 6 for thirty consecutive days. Claimant alleged that when he expressed his concerns regarding his investment in FWCC, Solomon continued to advise the Claimant to stay in his investment and to meet all margin calls. Claimant alleged that, without his authorization, Respondents sold Claimant's shares of MCI in order to closeout Claimant's position. Claimant alleged that Respondents negligently handled his account. Claimant alleged that the Respondents breached their fiduciary duty that they owed to Claimant. Claimant alleged that Respondents in selling his shares of MCI, without authorization, constituted conversion. Claimant alleged that at all times Solomon was acting within the scope of his employment and in furtherance of his employer, Corna & Co.'s business. Claimant alleged that Solomon made numerous false statements to the Claimant to induce him to short sell stock in FWCC. Claimant alleged that Respondents violated the Ohio Revised Code Section 1707.44.

In a Statement of Answer filed with the NASD on May 15, 1989, Respondent Corna & Co., Inc. ("Corna") maintained that all trades in Claimant's account were authorized. Corna maintained that Solomon disclosed to the Claimant that Claimant would be short selling units of FWCC. Respondent maintained that it had the right to sell Claimant's MCI to satisfy his margin account deficiency. Corna denied that any of the activity undertaken by its representatives with respect to the subject account was conducted in a negligent manner, nor in a way which would give rise to a legitimate claim of breach of fiduciary duty, fraud or illegality, as alleged by Claimant. Corna further denied that it or its representatives committed fraud or violated the securities laws of the State of Ohio.

In a Statement of Answer filed with the NASD on July 31, 1989, Solomon maintained that Claimant authorized a short sale of 2000 units of FWCC, each unit consisting of two shares and one unit at \$6.50. Solomon maintained that he advised the Claimant of the status of Claimant's investment, informed Claimant of all margin calls and provided Claimant with all pertinent information. Solomon maintained, that pursuant to the margin agreement executed by Claimant with Corna, that Corna was authorized to sell Claimant's MCI to cover the margin account deficiency. Solomon maintained he had numerous conversations regarding FWCC, but Claimant ultimately made his own decisions regarding purchases and sales. Solomon maintained that his actions were not in any way negligent, fraudulent, illegal or in breach of any fiduciary duty.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$83,458.00, plus punitive damages in the amount of \$50,000.00 and reasonable attorney's fees costs and interest.

Respondent Corna requested that the panel deny Claimant's claims in their entirety and assess the costs of these proceedings against the Claimant.

Respondent Solomon requested that Claimant's claim be denied in its entirety.

AWARD

On October 4, 1990, February 11 and April 24, 1991 in Columbus, Ohio during a hearing lasting four (4) sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant, Richard Severance on March 7, 1988 and signed by David A. Corna on behalf of Respondent Corna & Company, Inc. on May 10, 1989. Respondent Brad Solomon did not execute a submission agreement; however, he did submit an answer and attended the first hearing date. Pursuant to Section 12(a) of the Code of Arbitration Procedure, the presiding arbitrators exercised their jurisdiction over Respondent Brad Solomon.

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award 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.

After considering the pleadings, the testimony, and the evidence presented at the hearing, the arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. That Respondents are jointly and severally liable to the Claimant and shall pay to the Claimant the sum of THIRTY ONE THOUSAND EIGHT HUNDRED THIRTY-THREE AND 75/100 DOLLARS (\$31, 833.75); inclusive of interest.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following Forum Fee(s) are assessed:

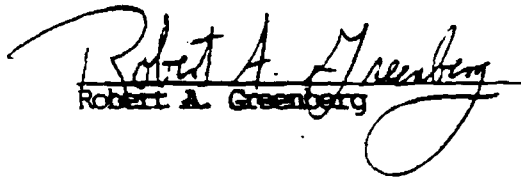
1. That Respondents are directed to refund to the Claimant his filing fee in the amount of \$500.
2. Forum fees in the amount of \$2000 are assessed against the Respondents jointly and severally; however, they are entitled to offset this amount with the filing fee that the panel has determined that the Respondents should bear so that forum fees in the amount of \$1500 are assessed against the Respondents. Forum fees are payable to the National Association of Securities Dealers, Inc.

Concurring Arbitrator Signature

Robert C. Devlin
Robert C. Devlin, Esq.

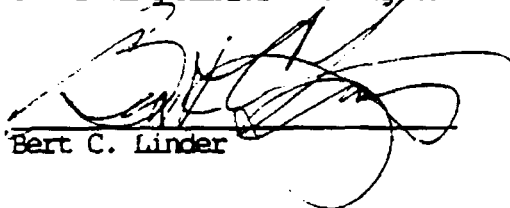
Date of Decision: 4/24/91
Revised 5/13/91

Concurring Arbitrator Signature


Robert A. Greenberg

Date of Decision: 4/24/91

Concurring Arbitrator Signature



Bert C. Linder

Date of Decision:

4/24/91