

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Helen W. Koernig and
Raymond C. Koernig

Claimants

and

89-01067 and 89-01093

Boettcher & Company

Respondent and Cross Claimant

and

Paul Jackson

Cross Claim Respondent and Cross Claimant

CASE SUMMARY

In claims filed with the NASD on or about April 11, 1989, Claimants Helen W. Koernig and Raymond C. Koernig (collectively as "Claimants") alleged that Respondent Boettcher & Company ("Boettcher") failed to execute their stop loss orders in Carrington Laboratories on October 16, 1987.

In its Answers and cross claims filed with the NASD on or about June 22, 1989 Boettcher denied that it had received a stop loss order. Boettcher asserted the affirmative defenses of failure to mitigate; estoppel; and that additional losses incurred by Claimants were a direct result of their failure to act. In its cross claim against Paul Jackson ("Jackson"), Boettcher alleged that Jackson failed to reduce Claimants' orders to writing.

In his answer to the cross claim and on his cross claim filed with the NASD on or about August 2, 1989, Jackson stated that he had not been able to contact all of his clients who held Carrington Laboratories prior to his termination. Jackson alleged that Boettcher failed to transfer his client list to him.

RELIEF REQUESTED

Helen Koernig requested an award in the amount of \$10,590.00 plus reasonable interest and reasonable costs. Raymond Koernig requested an award in the amount of \$18,025.00 plus reasonable interest; costs and attorneys fees.

Boettcher requested that the claims be dismissed and that it be awarded its costs and expenses in addition to an amount equal to any award rendered against it in favor of Claimants.

Jackson requested an award dismissing the cross claim and that he be awarded costs and expenses and unspecified damages.

AWARD

On Monday, August 27, 1990 in Denver, Colorado during a hearing lasting a total of two (2) sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on March 28, 1989 by Claimants Helen W. Koernig and Raymond C. Koernig on July 10, 1989 by William D. Nelson on behalf of Respondent Boettcher & Company, Inc. on August 29, 1989 by Respondent Paul Jackson.

The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent Boettcher & Company, Inc. shall be and hereby is liable for and shall pay to Claimant Raymond C. Koernig the sum of Twelve Thousand Two Hundred Fifty Dollars (\$12,250.00);

2. Respondent Boettcher & Company, Inc. shall be and hereby is liable for and shall pay to Claimant Helen W. Koernig the sum of Six Thousand One Hundred Twenty Five Dollars (\$6,125.00);

3. The Cross Claim of Boettcher & Company, Inc. shall be and hereby is dismissed in its entirety;

4. Each party shall bear their own costs and expenses incurred in this matter not specifically enumerated herein including attorneys fees;

5. No interest is awarded on the above stated sums;

6. The Cross Claim of Paul Jackson shall be and hereby is dismissed in its entirety; and

7. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall refund \$400.00 of the hearing session deposit in the amount of \$800.00 previously deposited with the NASD by the Claimants. Respondent Paul Jackson shall be and hereby is assessed and shall pay to the NASD as forum fees the sum of \$400.00.

Arbitrator(s) Signature

Dated: 8-27-90

/S/ Carol J. Zamperini

Dated: 8-27-90

/S/ Robert I. Kessler

Dated: 8-27-90

/S/ Daniel C. Himelsoch, Esq.

Date Served: 9-13-90