

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between:

William Rokopoulos

Claimant

vs.

Michael Apollo

Respondent

AWARD

Case #89-01561

#### CASE SUMMARY

Claimant alleged that Respondent transferred funds from his account on October 16, 1981 and April 28, 1982 to his brother's account to cover margin calls without verbal or written authorization. Respondent contended that the claim was barred by the NASD six year statute of limitations and other applicable shorter statutes, and that the claim was litigated to final resolution in previous court proceedings. Alternatively, Respondent contends there were written authorizations for the transfer.

#### RELIEF REQUESTED

Claimant seeks \$6217.00 for the transfer of October 16, 1981 and \$15,000 for the sum removed April 28, 1982. Respondent seeks dismissal and attorneys' fees.

#### AWARD

On October 26, 1990 the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant on May 17, 1989 and not signed by Respondent. The following are the findings in full and final resolution of the issues presented:

1. Respondent made a motion to dismiss the claims on the grounds that a) they are barred by the Code of Arbitration Procedure's six year statute of limitations and; b) that they are barred by the principles of res judicata and collateral estoppel based on prior court actions. During oral argument Respondent's counsel also moved for an award of attorneys fees.

Claimant opposed both motions, arguing, on the one hand, that principles of res judicata and collateral estoppel are inapplicable because Michael Apollo, the Respondent here, was not a defendant in the prior court actions; on the other hand, he argued that the statute of limitations was tolled during the period in which those claims were pending.

Both sides agree that the events at issue occurred between October 16, 1981 and April 28, 1982 and that the claim was not filed until May, 1989. Since Respondent Apollo was not a party to the prior court actions the Panel hereby finds that the statute of limitations was not tolled and the instant claims are out of time. The motion to dismiss is hereby granted.

1. With respect to Respondent's motion for attorneys' fees, the Panel directed submission of briefs by both parties. Respondent's brief and supporting documentation was submitted to the Panel on November 2, 1990. Claimant failed to submit any brief. The Panel finds the Respondent's motion for fees to be well founded and supported by case law as within our equitable powers. Accordingly, we find an award of \$5,000.00 as attorneys' fees to be reasonable and justified, and direct Claimant to pay this amount to Respondent within thirty days of service of this Award.

2. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$500 filing fee previously deposited by the Claimant.

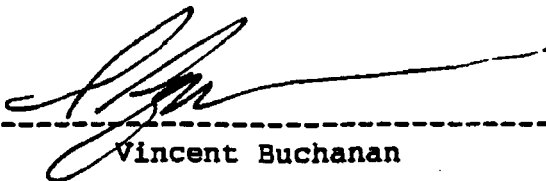
CONCURRING ARBITRATORS



Deborah Sherman, Esq.



Susan N. Perkins, Esq.



Vincent Buchanan

1661 5 ARB/ADR  
DATED BY NASD  
FEBRUARY 5, 1991

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