

JOSEPH D. MERCADANTE AND SAM PATTI	CLAIMANTS	
V.		AWARD #90-00467
FRANK NICOLOIS	RESPONDENT	

The Statement of Claim was filed with the NASD, Inc. on February 13, 1990.

Respondent, Frank Nicolois, maintained that according to standard industry practice, Claimants were liable for any losses that resulted from Mr. Mercadante's client's non-payment, that Claimants' account had a history of speculative trading and that the trade in question was unauthorized therefore Claimants should be expected to bear the financial consequences of Mr. Mercadante's actions.

Respondent requested dismissal of the claim with prejudice and an award for costs.

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**AWARD**

On October 22, 1990, the undersigned arbitrator heard the controversy between the Parties as set forth in submissions to arbitration signed by the Claimants, Joseph D. Mercadante and Sam Patti on February 10, 1990 and by Respondent, Frank Nicolois, on April 24, 1990. The hearing was held in New York City and consisted of two (2) sessions. The arbitrator, 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 Claims of the Claimants, Joseph D. Mercadante and Sam Patti, be and hereby are dismissed in all respects;
2. The Parties shall each bear their respective costs, including attorneys' fees;
3. Pursuant to Section 43 of the Code of Arbitration Procedure, the NASD, Inc. shall retain the \$400.00 filing fee previously deposited by the Claimant.
4. Respondent, Frank Nicolois is assessed forum fees in the amount of \$300.00 payable to the NASD, Inc. through its staff administrator in accordance with Section 43 of the Code of Arbitration Procedure.

**ARBITRATOR**

/s/

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Henry H. Balter  
(Sole Public Arbitrator)

Dated by the NASD: November 23, 1990