

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

DANIEL & SHARON TRIPODI

CLAIMANTS

V.

D.H. BLAIR & CO., INC.

RESPONDENT

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AWARD
#90-00493

CASE SUMMARY

The Statement of Claim was filed on February 15, 1990.

Claimants, Daniel and Sharon Tripodi alleged that their account was mishandled by Respondent, D.H. Blair & Co., Inc., in that their mailing address was changed without their permission and this resulted in misdelivery of reports and communication that they should have received, but didn't. As a result, Claimants contend that they did not receive timely notice that their 200 warrants of Molecular Biosystems expired before they could use the warrants to purchase additional shares of stock.

Respondent, D.H. Blair & Co., Inc., maintained that although it was under no legal or regulatory obligation to give the Claimants notice of the expiration of their warrants, it had in fact done so and further contended that the alleged incorrect change of Claimants' address on company records took place after the date that the warrants expired. Respondent maintained that its monthly and quarterly reports, prior to the date Claimants' address was changed, went to Claimants' correct address and that these reports each had an entry referring to the warrants and their expiration date. In addition, Respondent claimed that its clearing broker, Prudential Bache, also sent a notice to Claimants, at their correct address, that Molecular Biosystems would redeem the warrants if they were not exercised before their expiration date. Respondent further maintained that Claimants failed to take any further action with respect to the expiring warrants because market conditions made it financially unwise to do so and that after Claimants address had been changed on their records, Claimants' 300 shares of stock in Molecular Biosystem was transferred to an abandoned property account and were, at the Claimants' request, delivered to the Claimants shortly before the arbitration was initiated.

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RELIEF REQUESTED

Claimants requested the arbitrator require Respondent to deliver 200 shares of Molecular Biosystem stock to them as well as a return of their deposit with the NASD and costs.

Respondent requested dismissal of the Claim, costs and legal fees.

AWARD

On October 9, 1990, the undersigned arbitrator heard the controversy between the Parties as set forth in submission to arbitration signed by Claimants, Daniel and Sharon Tripodi on February 7, 1990 and by Respondent, D.H. Blair & Co., Inc. on May 3, 1990. The hearing was held in New York City and consisted of One (1) session. The arbitrator having considered the pleadings, the testimony and the evidence presented at the hearing as well as the post-hearing submissions has determined in full and final resolution of the issues submitted for determination as follows.

1. The Claimants request for an award requiring the Respondent, D.H. Blair & Co., Inc., to deliver to them an additional two hundred shares of Molecular Biosystem stock is hereby denied;
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 \$100.00 filing fee previously deposited by the Claimants;
4. Claimants, Daniel and Sharon Tripodi are assessed \$150.00 to be paid to the NASD, Inc. through its staff administrator pursuant to Section 43(e) of the Code of Arbitration Procedure (This amount represents the balance due of the non refundable filing fee of \$250.00);
5. Respondent, D.H. Blair & Co., Inc. is assessed forum fees in the amount of \$300.00 to be paid to the NASD, Inc. through its staff administrator pursuant to Section 43 of the Code of Arbitration Procedure.

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ARBITRATOR CONCURRING

Arnold Flicker

Arnold Flicker
(Sole Public Arbitrator)

Dated by the NASD, Inc.: December 5, 1990