

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Louis & Anita Lazar

90-02348

Name of Respondent(s)

Brown & Company

Heard before:

Name

Public/Industry

Cornelius J. McAuliffe, Esq.

Public Arbitrator

CASE SUMMARY

This claim was initiated by a Statement of Claim filed with the National Association of Securities Dealers, Inc. ("NASD") on August 23, 1990. Claimants alleged that the Respondent failed to execute properly an all or none limit day order option resulting in a financial loss to the Claimants. Respondent maintained that the Claimants had ratified the order "as/of" the previous day and claimed that the trade was unauthorized after the stock involved had plunged a week later.

RELIEF REQUESTED

Claimants requested damages of \$9,975.00, exclusive of attorneys fees, interest and costs. Respondent requested that the claims of the Claimants be dismissed and that Respondent be awarded costs and expenses, including reasonable attorneys fees.

AWARD

On April 18, 1991 in Boston, Massachusetts during a hearing lasting two (2) sessions, the undersigned arbitrator heard the controversy between the parties as set forth in submissions to arbitration signed by the Claimants

Anita and Louis Lazar on August 16, 1990 and by Respondent Brown and Co. on November 21, 1990. After considering the pleadings, the testimony, and the evidence presented at the hearing, the arbitrator has decided in full and final resolution of all issues submitted for determination as follows:

Claimant's testimony is credible that he did not learn for certain until late on October 12th that his "day order" to sell on October 11th was delayed one day. But thereafter he was obligated to mitigate his losses, especially after he was told to cover (Brown letter of 10/26/86, page 2)

(1) Therefore, Claimant is awarded and Respondent is liable for \$3,875.00 plus \$350.00 in commissions he paid, plus \$507.00 interest on that sum, for a total of \$4,732.00.

(2) The parties shall each bear their respective costs, including attorneys fees.

FORUM FEES

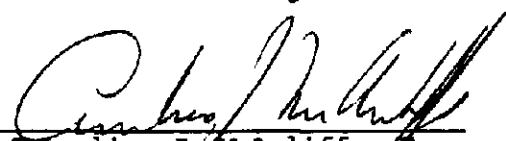
Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed:

(1) The NASD shall retain the \$200.00 hearing session deposit previously deposited by the Claimant.

(2) Respondent Brown and Company is assessed \$200.00 in forum fees.

Fees are payable to the National Association of Securities Dealers, Inc.

Arbitrator Signature



Cornelius J. McAuliffe, Esq.

Date of Decision: 5/13/91