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PUBLIC

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between :

Thomas J. Rosener

Claimant

#90-02539
AWARD

vs .

Concorde Brokerage Corp,
Paul Eisenberg

Respondents :

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on September 20, 1990, Claimant, Thomas J. Rosener who appeared Pro Se, alleged that in March 1989 he received notification that his security positions of 100 shares of Wellcome, PLC and 100 shares of London International Group, Inc. at Ernst & Co. were transferred to Respondent, Concorde Brokerage Corp. and Respondent Paul Eisenberg, an account executive, was assigned to his account. Claimant further alleged that in August 1989 he was relocated due to military orders and sent a change of address directory card to all correspondents informing them of this transfer, including Shelter Rock Securities, the clearing broker for Respondent, Concorde Brokerage Corp. Claimant contended that in May 1990, realizing he had not received any correspondence from Respondents, he contacted them to once again notify them of his current address, at which time, they sent a packet of material containing the returned mail in reference to his account. Claimant further contended that the material he received showed that in June 1989 Respondents sold his 100 shares of Wellcome, PLC and 100 shares of London International Group, Inc. without his authorization or consent and subsequently, purchased 1,000 shares of Great Bear Auto Comm. with the proceeds from the sales. Claimant asserted that these unauthorized trades occurred during the time period his mail was being returned to Respondent Concorde Brokerage Corp. therefore, they were done without Claimant's knowledge or consent and Respondents, Concorde Brokerage Corp. and Paul Eisenberg should be held liable for his losses.

Respondents, Concorde Brokerage Corp. and Paul Eisenberg, maintained that on May 31, 1988 Claimant's security positions, 100 shares of Wellcome, PLC ("Wellcome") and 100 shares of London International Group, Inc. ("LIG") were received by Respondent's,

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Concorde Brokerage Corp. clearing agent, Shelter Rock Securities Corp. and in 1989 Respondent Paul Eisenberg was assigned to Claimant's account. Respondents further maintained that in June 1988 or June 1989 they had no knowledge of Claimant's change of address but on June 28, 1989, Respondent Paul Eisenberg received a call from Claimant, at which time, after a lengthy discussion, Claimant instructed Respondent Paul Eisenberg to sell off his Wellcome and LIG shares and to use the proceeds to purchase 1,000 shares Great Bear Auto Comm. Respondents contended that at no time during the June 28, 1989 conversation did Claimant provide Respondents with his new address or telephone number and claims to have sent notification directly to Shelter Rock Securities Corp., therefore, Respondent, Concorde Brokerage Corp. had no knowledge of Claimant's address change. Respondents further contended that when Claimant failed to receive his account statements for the period May 1989 to February 1990, he did not contact Respondents until May 9, 1990 to notify them of his current address. Respondents asserted that all transactions for Claimant's account were done so after specific authorization, therefore, Respondents should not be held liable for any losses.

RELIEF REQUESTED

Claimant, Thomas J. Rosener requested \$1,475.00 in actual damages and \$1,000.00 in punitive damages.

Respondents, Concorde Brokerage Corp. and Paul Eisenberg requested the claim be dismissed.

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Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Richard J. Bartlett, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on July 20, 1990 and by the Respondents on February 22, 1991.

And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Respondents, Concorde Brokerage Corp. and Paul Eisenberg are jointly and severally liable and shall pay to the Claimant, Thomas J. Rosener the sum of \$1,475.00 in damages.

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2. The Claimant's request for Punitive damages is denied.
3. The parties shall bear their respective costs.
4. The \$50.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Thomas J. Rosener shall be retained by the NASD, Inc. Respondents, Concorde Brokerage Corp. and Paul Eisenberg are jointly and severally liable! and shall pay to the Claimant the sum of \$50.00 as reimbursement.

AFFIRMATION

I, RICHARD J. BARTLETT, ESQ., do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.



Signature of Arbitrator

DATE OF DECISION: July 16, 1992