

N.A.S.D. AWARD

Arbitration

NATIONAL ASSOCIATION OF SECURITIES DEALERS

National Association of
Securities Dealers, Inc.
One East Broward Boulevard
Suite 1000
Ft. Lauderdale, Florida 33301
(305) 522-7391

In the Matter of the Arbitration Between)

Name of Claimant(s))

Nicholas Corcokios)

Name of Respondent(s))

G.K. Scott & Co. Inc.)
Allerton Towne)
Timothy Ciraulo)

Case No. 90-03117

Heard before the Arbitrator:

Louise T. Jeroslow, Esq.

Public

REPRESENTATION

Claimant, Nicholas Corcokios ("Corcokios"), was represented by James R. Merola, Esq. of Merola, McCarthy & Cox, P.A.

Respondent, G.K. Scott & Co., Inc. ("G.K. Scott"), Allerton Towne ("Towne") and Timothy Ciraulo ("Ciraulo"), were represented by William S. Isenberg, Esq. of Latona & Isenberg.

CASE SUMMARY

This matter was initiated by a Statement of Claim filed with the National Association of Securities Dealers, Inc. ("NASD") on November 2, 1990 and amended on April 26, 1991. Claimant alleged that Respondents sold 40,000 shares of penny stock owned by Claimant after the sell order expired; that the trade was not authorized; and, that Respondents' actions constituted either gross negligence or an intentional act.

In a Statement of Answer filed with the NASD on January 14, 1991, and amended on February 11 and May 14, 1991, Respondents denied all allegations of wrongdoing and alleged that Claimant's instructions to sell the stock at 5/16 were followed; the trade was authorized and ratified; and, that Claimant only complained when price of stock rose after the trade.

Respondents alleged the affirmative defenses of failure to mitigate damages; failure to use due diligence; losses caused by Claimant's actions; loss not caused by Respondents; bar by unclean hands and comparative negligence; and, good faith.

RELIEF REQUESTED

Claimant requested damages in the amount of \$18,750.00, punitive damages, costs and attorney's fees.

Respondents' requested dismissal.

AWARD

On May 7 and July 8, 1991, in Fort Lauderdale, Florida, during a hearing lasting three (3) sessions, the undersigned arbitrator heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant on September 27, 1990, by Ciraulo on January 11, 1991, by Towne on January 11, 1991 and signed by George Kevorkian, President, on behalf of G.K. Scott on January 3, 1991.

After considering the pleadings, the testimony, and the evidence presented at the hearing, the arbitrator has decided in full and final resolution of the issues submitted for determination as follows.

1. Respondent, Ciraulo, is found not liable and, therefore, all claims against him are hereby dismissed.
2. Respondents, G.K. Scott and Towne, are found liable, jointly and severally, and shall pay to the Claimant the amount of \$2,800.00, plus interest at the legal rate of 12% per annum from September 21, 1990 to July 8, 1991, in the amount of \$266.96 for a total due to the Claimant of \$3,066.96.
3. Claimant's requests for attorney's fees, costs and punitive damages are denied.

FORUM FEES

1. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Arbitrator has assessed forum fees in the amount of \$900.00 (three sessions x \$300.00 per session). Respondent, G.K. Scott, is hereby assessed \$900.00, \$300.00 of which shall be paid directly to the Claimant, and \$600.00 of which shall be paid to the National Association of Securities Dealers, Inc.

2. The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding.

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

OTHER ISSUES

None.

Arbitrator's Signature

Louise Jeroslow
Louise T. Jeroslow, Esq.

Date of Decision: July 23, 1991