

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between :
: Jeaniene I. Fyllingness :
Helen I. Richards :
: Claimants :
: CASE #90-03156
vs. : AWARD
: Sacks Investment Company, Inc. :
Robert Vallier :
Richard Sacks :
Melvin Simons :
: Respondents :

CASE SUMMARY

Jeaniene I. Fyllingness and Helen I. Richards, in a claim filed with the National Association of Securities Dealers, Inc. on November 7, 1990, alleged that Respondent Robert Vallier while employed at Sacks Investment Co., Inc., Richard Sacks, Principal, took over their account while broker Melvin Simons was absent from the firm and that Mr. Vallier engaged in unauthorized trades in their account. They state that these unauthorized transactions resulted in a loss of equity in their account. They allege that both Mr. Simons and Mr. Sacks promised to restore the account but failed to do so.

On December 10, 1990, by letter dated December 7, 1990, Richard Sacks, President of Sacks Investment Company, Inc., informed the NASD, Inc. that he had forwarded a copy of all correspondence regarding this case to their attorney, James Sullivan, Esq., who should be able to provide a response within ten business days.

On January 31, 1991, the Statement of Claim was re-served on Sacks Investment Co., Inc. and Richard Sacks, individual. Service was effected on February 5, 1991 as evidenced by the signed, dated return of the Certified Mail green cards. No Answers were received.

On March 7, 1991, Senior Legal Assistant, Mary Barto, received a call from Respondent Robert Vallier stating that he had previously responded to the Statement of Claim in the captioned

case. He was informed that his Answer had not been received, at which point he confirmed that he would immediately send a copy to Ms. Barto and requested that a Uniform Submission Agreement be sent to him by regular mail. On March 7, 1991, a Uniform Submission Agreement, complete copy of the Statement of Claim and notification of the name and background of the prospective Arbitrator, were sent by regular mail to Robert Vallier at 749 Atherton Street, Novato, CA 94945, said address being confirmed by Mr. Vallier. By March 20, 1991, no Statement of Answer or Submission Agreement were received from Respondent Vallier.

On January 31, 1991, the Statement of Claim was served on Respondent Melvin Simons, 8141 Redwood Boulevard, Novato, CA 94945, said service being evidenced by the signed return of a Certified Mail green card dated February 5, 1991. No Answer was received.

RELIEF REQUESTED

Claimants request reinstatement of their cash balance of One Thousand Six Hundred Six Dollars and Twenty-Five Cents (\$1,606.25).

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Gregory G. Moore, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on October 31, 1990 and not by the Respondents as required by Section 13(d) of the Code of Arbitration Procedure.

And, that 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. That the Respondents, Sacks Investment Co., Inc., Robert Vallier, Richard Sacks and Melvin Simons are jointly and severally liable and shall pay to the Claimants, Jeaniene I. Fyllingness and Helen I. Richards, the sum of One Thousand Six Hundred Six Dollars and Twenty-Five Cents (\$1,606.25).
2. The Fifty Dollars and No Cents (\$50.00) filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants is assessed jointly and severally against the Respondents and payable by the Respondents to the Claimants.

AFFIRMATION

I, **GREGORY G. MOORE**, 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

DATED: 3-25-91