

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Marnette Goldberg

Name of Respondents

Otra Clearing, Inc.
Jersey Capital Markets Group
John T. Booth
Thomas Martin
Daniel Paolicelli

90-03325

REPRESENTATION OF PARTIES

Claimant was represented by Thomas F. Quinn, Esq. of Jones & Keller, Denver, Colorado.

Respondents Jersey Capital Markets Group, Inc. and John T. Booth were represented by Thomas A. Rigilano, Esq. of Gusrae, Kaplan & Bruno, New York, New York.

Respondent Otra Clearing, Inc. was represented by Scott G. Monson, Esq. Otra Clearing, Inc., Salt Lake City, Utah.

Respondents Thomas Martin and Daniel Paolicelli did not appear at the hearing.

CASE INFORMATION

The Statement of Claim was filed on or about November 23, 1990.

Claimant's Submission Agreement signed on March 7, 1991.

Statement of Answer filed by Respondents Jersey Capital Markets Group, Inc. and John T. Booth, on or about March 29, 1991.

Respondent Jersey Capital Markets Group, Inc.'s Submission Agreement signed on March 28, 1991 by John T. Booth, President. Respondent John T. Booth's Submission Agreement signed on March 28, 1991.

Statement of Answer of Respondent Otra Clearing, Inc. filed on or about April 3, 1991. Respondent Otra Clearing, Inc.'s Submission Agreement signed on March 28, 1991 by Scott G. Monson.

HEARING INFORMATION

The hearing was held on Monday, January 13, 1992 for one (1) session. Wednesday, February 19, 1992 for two (2) sessions and Thursday, February 20, 1992 for three (3) sessions in Denver, Colorado for a total of six (6) sessions.

CASE SUMMARY

Claimant alleged that Respondents John T. Booth ("Booth"), Daniel Paolicelli ("Paolicelli"), Thomas Martin ("Martin"), Otra Clearing, Inc. ("Otra") and Jersey Capital Markets Group, Inc. ("Jersey") (collectively as "Respondents") effected or caused to be effected transactions in her account without having an account agreement executed by the Claimant. Claimant also alleged that Respondents Otra and Jersey distributed inaccurate confirmations. Claimant further alleged that transactions in the following securities were not authorized: Peerless Production Ltd., and Optimax Electronics, Inc. Claimant also alleged that Respondents made misrepresentations regarding the registration status of Respondent Martin and regarding the transactions in her account.

Respondent Otra denied the allegations against. Otra specifically stated that it prepared and mailed certain confirmations and that the information thereon was supplied to it by Respondent Jersey. Otra also asserted the following affirmative defenses: claimant has failed to state a cause of action upon which relief can be granted; it acted in full conformance with the terms and conditions of it's agreement with Jersey and it's duties to Claimant; it acted solely as a clearing broker and made no representations to the Claimant; the allegations of unauthorized transactions were carried on by other Respondents to this matter; and all or some of Claimant's damages were proximately caused by the conduct of others.

Respondents Jersey and Booth denied the allegations against them.

RELIEF REQUESTED

Claimant requested an award in the amount of \$87,427.00 as compensatory damages, punitive damages in the amount of \$262,281.00, costs, interest, and attorney's fees.

Respondent Otra requested that the claims against it be dismissed and that it be reimbursed for it's costs and expenses.

Respondents Jersey and Booth requested that the claims asserted against them

he dismissed.

OTHER ISSUES CONSIDERED & DECIDED

Respondent Otra asserted a Motion to Dismiss prior to the hearing. After considering the parties arguments and briefs, the panel denied the motion.

Claimant's counsel indicated on the record that this hearing should proceed without Messrs Martin and Paolicelli. Claimant's counsel indicated that service had not been obtained on those persons and that Claimant was willing to proceed against the remaining Respondents.

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with the NASD.

AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing and the post-hearing submissions, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. The claims asserted herein shall be and hereby are denied in their entirety.
2. Respondent Jersey Capital Markets Group Inc. shall be and hereby is liable for and shall pay to the Claimant the sum of \$880.00 for expert witness fees incurred as a result of the adjournment of the hearing of this matter on January 13, 1992 pursuant to the prior order dated entered on behalf of the panel.
3. Each party shall bear its own costs, expenses and attorney's fees incurred in this matter not specifically enumerated herein.

FORUM FEES

Pursuant to Section 43(c) of the NASD Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. ("NASD") shall retain the non-refundable filing fee in the amount of \$200.00 and shall retain the hearing session deposit in the amount of \$750.00 previously deposited with the NASD by the Claimant. Claimant shall pay to the NASD the sum of \$375.00; Respondent Otra Clearing, Inc. shall pay to the NASD the sum of \$1,125.00; Respondent Jersey Capital Markets Group, Inc. shall pay to the NASD the sum of \$1,125.00; and John T. Booth shall pay to the NASD the sum of \$1,125.00 as forum fees.

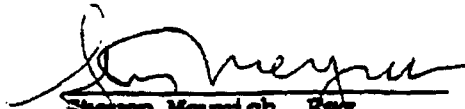
Forum fees are calculated at the rate of \$750.00 per hearing session and \$300.00 for each prehearing conference, if any.

The NASD shall retain postponement fees in the amount of \$750.00 previously deposited with the NASD by or on behalf of Jersey Capital Markets Group, Inc.

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

Dated:

3/3/92



Steven Mayrich, Esq.
Presiding Chair Public Arbitrator

James B. Richberg
Public Arbitrator

Michael C. Jones
Industry Arbitrator

90-3325

Forum fees are calculated at the rate of \$750.00 per hearing session and \$300.00 for each prehearing conference, if any.

The NASD shall retain postponement fees in the amount of \$750.00 previously deposited with the NASD by or on behalf of Jersey Capital Markets Group, Inc.

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

Dated:

March 2, 1992

Steven Mayrich, Esq.
Presiding Chair Public Arbitrator

James B. Eichberg
James B. Eichberg
Public Arbitrator

Michael C. Jones
Industry Arbitrator

90-3325

Forum fees are calculated at the rate of \$750.00 per hearing session and \$300.00 for each prehearing conference, if any.

The NASD shall retain postponement fees in the amount of \$750.00 previously deposited with the NASD by or on behalf of Jersey Capital Markets Group, Inc.

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

Dated:

Steven Mayrich, Esq.
Presiding Chair Public Arbitrator

James B. Eichberg
Public Arbitrator

Michael C. Jones
Industry Arbitrator

3/20/92

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