

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Harry A. and Joan M. Schmidt

90-03646

Name of Respondent(s)

Blunt Ellis & Loewi Incorporated
Jacque Mead

REPRESENTATION

Claimants, Harry A. Schmidt and Joan M. Schmidt, appeared pro se.

Respondents Blunt Ellis & Loewi and Jacque Mead were represented by Timothy E. Hays, Esq.

CASE SUMMARY

In a statement of claim filed with the National Association of Securities Dealers, Inc. ("NASD") on or about February 14, 1991, Claimants, Harry A. Schmidt and Joan M. Schmidt ("the Schmidts") alleged mishandling of client account, in that Respondents, Jacque Mead ("Mead") did not purchase 100 shares of Chevron stock as requested by the Claimants. Instead, Respondent Mead purchased \$6,000 of Chevron Scores. The claimants placed the purchase order with Respondent Mead in September of 1990. The Claimants did not realize scores were purchased until late 1990. In March of 1991, when Claimants realized that Scores were actually not stock, the Claimants demanded their investment be switched back to Chevron Stock.

In a Statement of Answer filed with the NASD on or about April 22, 1991, Respondents Blunt Ellis & Loewi, Inc., "BEL, Inc." and Mead denied they engaged in any conduct warranting in position of liability against them, either jointly or severally. Respondents further deny any and all allegations contained in the statement of claim.

As their affirmative defenses, Respondents state that the allegation contained in the Statement of Claim failed to state a claim that would entitle Claimants relief, that the Claimants understood investing in scores, and that Claimants failed to mitigate damages because Claimants procrastinated in selling the scores. The Respondents further asserted that the Claimants ratified all transactions, and thus, were estopped from bringing this claim.

RELIEF REQUESTED

Claimants, the Schmidts, requested that Respondents BEL, Inc. and Mead be made to give them 100 shares of Chevron stock, or in the alternative, \$2400 plus the accrued dividends as of the transaction date (\$600). Claimants also requested they be awarded all costs and fees related to this matter plus the \$145 cost to sell the scores.

Respondents, BEL, Inc. and Mead, requested that Claimants take nothing by their claim. Respondents requested that the arbitrator award them their own costs and expenses incurred in defending the case and any additional relief deemed just and proper by the arbitrator.

PROCEDURAL MATTERS

On August 20, 1991 in St. Louis, Missouri during a hearing lasting a total of one session, the undersigned arbitrator heard the controversy between the parties as set forth in submission to arbitration signed on December 17, 1990 by Claimants Harry A. Schmidt and Joan M. Schmidt, on April 17, 1991 by Constance Shannon on behalf of Respondent Blunt, Ellis & Loewi, Inc. and on May 23, 1991 by Respondent Jacque Mead.

Respondents Blunt Ellis & Loewi, Inc. and Jacque Mead did file with the NASD a properly executed submissions to arbitration and having answered the claim, appeared and testified at the hearing are all bound by the determination of the arbitrator on all issues submitted.

The parties have agreed that a handwritten, signed Award may be entered. The parties have agreed to receive conformed copies of the award while the original remains on file with the NASD.

AWARD

The arbitrator, having considered the pleadings, the testimony, and the evidence presented at the hearing, has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents Blunt Ellis & Loewi, Inc. and Jacque Mead are jointly and severally liable for and shall pay to the Claimants Harry A. Schmidt and Joan M. Schmidt the sum \$2,227.64;
2. Each party shall bear its own costs of arbitration, including attorney's fees; and
3. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the hearing session deposit in the amount of \$150.00 previously deposited with the NASD by the Claimants Harry A. Schmidt and Joan M. Schmidt.

Dated: August 20, 1991

Presiding Chair
Robert T. Donnelly
Public Arbitrator