

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

David J. and Geriann Patterson

and

91-01890

Name of Respondents

Toluca Pacific Securities, Inc.
U.S. Clearing Corp.

REPRESENTATION OF PARTIES

Claimants appeared pro se.

Respondent Toluca Pacific Securities Corporation was represented by Peter Blowitz, its President.

Respondent U.S. Clearing Corp. was represented by Peyter Blowitz by agreement of U.S. Clearing and Toluca Pacific.

CASE INFORMATION

The Statement of Claim was filed on or about June 18, 1991.

Claimant's Submission Agreement signed on June 6, 1991 by David J. Patterson and Geriann Patterson.

Statement of Answer filed by Respondent, Toluca Pacific Securities Corporation on or about July 26, 1991.

Respondent Toluca Pacific Securities Corporation's Submission Agreement signed on July 25, 1991 by Peter Blowitz, President.

Statement of Answer filed by Respondent U.S. Clearing Corp. on or about August 14, 1991.

Respondent U.S. Clearing Corp.'s Submission Agreement signed on August 14, 1991 by Richard E. Orie, Vice President.

HEARING INFORMATION

The hearing was held on Monday, January 6, 1992 in Denver, Colorado for a total of two (2) sessions.

CASE SUMMARY

Claimant alleged that unauthorized transactions were made in their account. Claimant specifically stated that an buy order was entered in their account in error and when it was not paid for by the Claimants, Respondents began to liquidate other securities in their account. The erroneous trade involved The Eateries stock.

Respondent Toluca Pacific Securities Corp. denied that the trade in question was erroneously entered into the Claimant's account. Toluca had offered to rescind the liquidations in the account upon receipt of a statement from the broker, Robin Heiney, that the trade in The Eateries was unauthorized. Toluca also asserted a counterclaim for the debit balance which remains in the account.

Respondent U.S. Clearing Corp. denied the allegations set forth in the Statement of Claim. Specifically, U.S. Clearing Corp. stated that it merely acted as the clearing broker for these transactions and therefore has no liability for the orders entered by Toluca.

RELIEF REQUESTED

Claimants requested an award in the amount of \$2,579.00 as compensatory damages, punitive damages, and treble damages.

Respondent Toluca Pacific Securities Corp. requested that the Statement of Claim be dismissed and that it be awarded the sum of \$2,548.44.

Respondent U.S. Clearing Corp. requested that the allegations against it as stated in the Statement of Claim be dismissed.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that a handwritten, signed Award may be entered and to receive conformed copies of the award while the original remains 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 arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent Toluca Pacific Securities Corporation shall be and hereby is liable for and shall pay to the Claimants the sum of \$1,591.38 (One Thousand Five Hundred Ninety One Dollars and Thirty Eight Cents).
2. Interest at the rate of 8% per annum from and inclusive of September 21, 1990 to and inclusive the date this award is paid.

3. Respondent Toluca Pacific Securities Corporation shall be and hereby is liable for and shall pay to the Claimants the sum of \$633.00 (Six Hundred Thirty Three Dollars) as attorney's fees.
4. No punitive damages are awarded herein. In denying the request for punitive damages against the Respondents named herein, the arbitrator specifically does not preclude the Claimants from proceeding with any claims against Robin Hainey.
5. The counterclaim of Toluca Pacific Securities Corporation shall be and hereby is dismissed in its entirety.
6. All claims asserted against Respondent U.S. Clearing Corporation shall be and hereby are dismissed in their entirety.

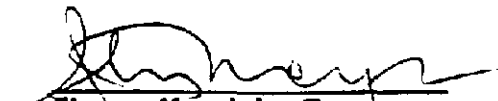
FORUM FEES

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 \$100.00 and shall retain the hearing session deposit in the amount of \$300.00 previously deposited with the NASD by the Claimant. The NASD shall retain the non-refundable filing fee in the amount of \$500.00 and shall retain the hearing session deposit in the amount of \$300.00 previously deposited with the NASD by Respondent Toluca Pacific Securities Corporation. Respondent Toluca Pacific Securities Corp. shall pay to the Claimants the sum of \$400.00 as reimbursement of filing fees and hearing session deposit made by the Claimants.

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

Dated:

1-21-92


Steven Mayrich, Esq.
Presiding Chair
Public Arbitrator

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DISCIPLINARY REFERRAL

During the course of the hearing in the above captioned matter, the undersigned arbitrator heard testimony and evidence which called into question the practices of Robin Heiney. The undersigned feels that the appropriate District office of the NASD should investigate the matter to determine whether disciplinary action is necessary.

Dated:

1-31-92-


Steven Meyrich, Esq.