

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

PUBLIC

In the Matter of the Arbitration Between

Name of Claimant(s)

Bruce T. Blythe

91-02524

Name of Respondent(s)

Marc Stuart Rogovin

REPRESENTATION

For Claimant: Richard L. Heffner, Jr., Esq. of Page & Bacek in Atlanta, Georgia.

Respondent Marc Stuart Rogovin did not appear in the proceeding.

CASE INFORMATION

Statement of Claim filed: August 16, 1991.

Claimant's Submission Agreement signed on: January 3, 1991.

Respondent Marc Stuart Rogovin did not file a Statement of Answer or sign a Uniform Submission Agreement.

HEARING INFORMATION

Pre-Hearing Conference: April 10, 1992

Hearing Dates/Sessions: April 21, 1992/one session

Hearing Location: Atlanta, Georgia

CASE SUMMARY

Claimant Bruce T. Blythe alleged that Respondent Marc Stuart Rogovin misrepresented various material facts regarding the recommendation and solicitation of Voicemail International, Inc. and omitted to disclose certain material facts in connection with its purchase. Claimant alleged that, in recommending that he purchase Voicemail, the Respondent misrepresented that Voicemail had executed, or was about to execute, certain contracts and that the price of Voicemail would rise when this information became public despite

the fact that Voicemail was in a precarious financial position. Respondent Marc Stuart Rogovin did not file a Statement of Answer to the Statement of Claim.

#### RELIEF REQUESTED

Claimant requested actual damages of \$78,952.00, punitive damages of \$20,000.00, interest, costs, and attorneys' fees. Respondent did not file a Statement of Answer to the Statement of Claim.

#### OTHER ISSUES CONSIDERED & DECIDED

Respondent Marc Stuart Rogovin did not sign a Uniform Submission Agreement or file a Statement of Answer to the Statement of Claim as required by Sections 12 and 25 of the Code of Arbitration Procedure despite notice of the Statement of Claim upon him in a service letter dated August 21, 1991 sent regular mail via the U.S. Postal Service by the NASD, Inc. and not returned as undeliverable. The NASD, Inc. sent an overdue notice to Mr. Rogovin for his Statement of Answer in a letter dated October 28, 1991. This notice was sent certified mail and the NASD, Inc. received a returned and signed certified receipt showing date of delivery to Mr. Rogovin on October 30, 1991. The NASD, Inc. served Mr. Rogovin with the hearing notice in this matter on March 3, 1992. This notice was sent certified mail and returned to the NASD, Inc. unclaimed. The NASD, Inc. then served Mr. Rogovin via Federal Express with the hearing notice on April 10, 1992 for Saturday delivery and service was perfected by Federal Express. Mr. Rogovin did not appear at the hearing on April 21, 1992. Pursuant to Section 29 of the Code of Arbitration Procedure, the arbitrators determined to go forward with the hearing on that date.

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 originals remain on file with the NASD.

#### AWARD

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

(1) Respondent Marc Stuart Rogovin is liable and shall pay to the Claimant Bruce T. Blythe the sum of Ten Thousand Dollars and No Cents (\$10,000.00). No interest is awarded.

(2) The Claimant's claim for punitive damages is denied.

OTHER COSTS

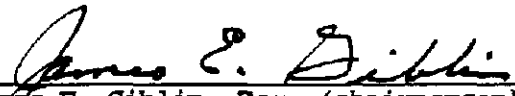
(1) The parties shall bear their own costs including attorneys' fees.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed:

(1) Respondent Marc Stuart Rogovin is assessed \$500.00 in forum fees and shall pay this amount to Claimant Bruce T. Blythe as reimbursement of the \$500.00 hearing session deposit previously deposited with the NASD, Inc. by the Claimant.

Concurring Arbitrators' Signatures

  
James E. Giblin, Esq. (chairperson)

Public Arbitrator

\_\_\_\_\_  
Irving M. Schlesinger

Public Arbitrator

\_\_\_\_\_  
Lex Jolley

Industry Arbitrator

Dated: *28 May 1992*

NASD DATE OF DECISION: July 1, 1992

OTHER COSTS

- (1) The parties shall bear their own costs including attorneys' fees.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed:

- (1) Respondent Marc Stuart Rogovin is assessed \$500.00 in forum fees and shall pay this amount to Claimant Bruce T. Blythe as reimbursement of the \$500.00 hearing session deposit previously deposited with the NASD, Inc. by the Claimant.

Concurring Arbitrators' Signatures

James E. Giblin, Esq. (chairperson)

Irving M. Schlesinger

Lex Jolley

Public Arbitrator

Public Arbitrator

Industry Arbitrator

Dated: NASD DATE OF DECISION: July 1, 1992

OTHER COSTS

(1) The parties shall bear their own costs including attorneys' fees.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed:

(1) Respondent Marc Stuart Rogovin is assessed \$500.00 in forum fees and shall pay this amount to Claimant Bruce T. Blythe as reimbursement of the \$500.00 hearing session deposit previously deposited with the NASD, Inc. by the Claimant.

Concurring Arbitrators' Signatures

\_\_\_\_\_  
James E. Giblin, Esq. (chairperson)

Public Arbitrator

\_\_\_\_\_  
Irving M. Schlesinger

Public Arbitrator

\_\_\_\_\_  
Lex Jolley

Industry Arbitrator

Dated:

6/14/92

NASD DATE OF DECISION: July 1, 1992