

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between :
Richard & Mary Virgile, JT TEN :
Claimant :
vs. :
Madison Chapin Associates, Inc. :
Joseph Krochak :
Respondents :

PUBLIC

CASE #91-02839
AWARD

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on September 12, 1991, Claimants Richard & Mary Virgile, who appeared Pro Se, alleged that in April, 1990 Mr. Michael Rooney, an account executive with Respondent, Madison Chapin Associates, Inc. solicited them to purchase 2,500 shares of Health Advancement Services, Inc. at which time, Claimants gave Respondent Madison Chapin Associates, Inc. verbal and written instructions to sell this stock within one day of its issue. Claimants further alleged that Respondent Joseph Krochak, an account executive with Respondent, Madison Chapin Associates, Inc. advised them he would sell the stock the day of issue as soon as the price "peaked" and began to drop. Claimants contended that Respondents Madison Chapin Associates, Inc. and Joseph Krochak failed to follow their explicit instructions to sell the stock on the day of issue, thus creating losses to their account when the stock was finally sold.

Respondent, Joseph Krochak, who appeared Pro Se, maintained that Mr. Michael Rooney, an account executive with Respondent Madison Chapin Associates, Inc., opened an account for Claimants, Richard & Mary Virgile, to buy 2,500 units of Health Advancement Services, Inc. at \$1.00 per I.P.O. unit and later Respondent Joseph Krochak took over this account when Mr. Rooney left the firm. Respondent further maintained that he advised Claimants that he would be their new account executive and when Claimants stated that Mr. Rooney told them they would make a profit on this stock, Respondent informed them that there was no guarantee they would make any profit. Respondent contended that the stock opened at 1 1/16 bid and he put in a sell order when a 1 1/18 offer was made at the end of the day, but the sell order was not executed due to

the short time period before the close of the market. Respondent further contended that on June 21, 1990 Claimants instructed him to sell the stock and forward them the proceeds on settlement date, which he did. Respondent asserted that the stock never went above \$1.00 bid and that Claimants approved the buy and sell transactions therefore, he should not be held liable for their losses.

Respondent, Madison Chapin Associates, Inc. failed to file an Answer to the Statement of Claim.

RELIEF REQUESTED

Claimants, Richard & Mary Virgile requested \$936.25 in actual damages.

Respondent, Joseph Krochak requested the claim be denied.

Respondent, Madison Chapin Associates, Inc. failed to file an Answer to the Statement of Claim.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Melvin Lyon, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on July 27, 1991, by the Respondent, Joseph Krochak on October 19, 1991 and not by the Respondent, Madison Chapin Associates, Inc. as required by Sections 12 & 13 of the NASD Code of Arbitration Procedure.

1. In accordance with Section 13 of the NASD Code of Arbitration Procedure the Respondent, Madison Chapin Associates, Inc. was served a copy of the Statement of Claim by regular mail on October 1, 1991 and given an opportunity to respond, which they failed to do. Respondent, Madison Chapin Associates, Inc. was re-served by certified mail on November 12, 1991 and given an opportunity to respond, which they failed to do. Respondent, Madison Chapin Associates, Inc. failed to file an answer to the Statement of Claim.
2. Pursuant to the By-Laws of the NASD the arbitrator determined that Respondent, Madison Chapin Associates, Inc. was required to submit to this arbitration proceeding and is,

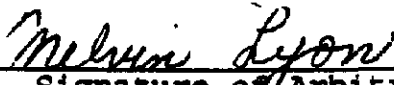
therefore, bound by the arbitrator's ruling and determination.

And, 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. Respondent, Madison Chapin Associates, Inc. is liable and shall pay to the Claimants, Richard & Mary Virgile the sum of \$936.25 in damages.
2. The claims of Claimants, Richard and Mary Virgile against Respondent, Joseph Krochak are dismissed.
3. The parties shall bear their respective costs.
4. The \$30.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants, Richard and Mary Virgile shall be retained by the NASD, Inc. Respondent, Madison Chapin Associates, Inc. is liable and shall pay to the Claimants the sum of \$30.00 as reimbursement.

AFFIRMATION

I, **MELVIN LYON**, 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

DATE OF DECISION: May 29, 1992