

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Lambda Mech. Contracting Corp. Trust

91-02929

Name of Respondents

Michael Eisenberg  
Concorde Brokerage Corp.

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REPRESENTATION

For Claimant: Harold Krane, Trustee, Pro Se.

For Respondent, Concorde Brokerage Corp.: Michael Bachner, Esq., a sole practitioner.

For Respondent, Michael Eisenberg: Michael Eisenberg, Pro Se.

CASE INFORMATION

Statement of Claim filed: September 20, 1991.

Statement of Claim Supplement Addendum "A" filed: April 29, 1992.

Claim Supplement filed: May 18, 1992.

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

Statement of Answer and Motion to Dismiss filed by Respondent, Concorde Brokerage Corp.  
on: December 17, 1991.

Respondent, Concorde Brokerage Corp.'s Submission Agreement signed on: December 17 ,  
1991.

Statement of Answer filed by Respondent, Michael Eisenberg, on: November 2, 1992.

Respondent, Michael Eisenberg, did not file an executed submission agreement pursuant to  
Section 25 of the Code of Arbitration Procedure.

### **HEARING INFORMATION**

Hearing Dates/Sessions: June 9, 1992, 1 session  
January 18, 1993, 2 sessions.

Hearing Location: New York, New York.

### **CASE SUMMARY**

Claimant alleges that Respondents made unauthorized trades in claimant's account, engaged in deceptive practices and made misrepresentations to the Claimant. Claimant further alleges that Respondents failed to issue a Customers Agreement and failed to provide claimant with timely notification of stock trade of Wins Satellite Inc., for Black Cat Entertainment Corp and that Respondent failed to execute a sell order for Wins Satellite stock and warrants. Claimant further alleges that Respondents' acts were in violation of State and Federal Securities laws as well as the rules and regulations of the NASD.

Respondent, Concord Brokerage Corp. ("Concorde"), maintains that no activities took place in Claimant's account without the knowledge, consent and authorization of the Claimant, nor did Respondents make any misrepresentations regarding the securities in question. Concorde further maintains that all trades were promptly and accurately reported to Claimant via verbal and written confirmations. Concorde also maintains that the claimant's action was filed solely to protect claimant from being sued as trustee by the Lambda Mechanical Contracting Corp. pension trust for making a poor investment decision.

Respondent, Michael Eisenberg ("Eisenberg"), maintains that Claimant's action was unwarranted, erroneous and without merit. Eisenberg further maintains that Claimant was fully aware of the securities he purchased from Concorde and that Claimant's action is an effort to recoup his losses.

### **RELIEF REQUESTED**

Claimant requested compensatory damages of \$15,312.50 plus legal fees of \$2,155.00.

Respondents, Concorde Brokerage Corp. and Michael Eisenberg requested that the arbitration be dismissed.

### **OTHER ISSUES CONSIDERED & DECIDED**

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

Pursuant to the by-laws of the NASD, Respondent, Michael Eisenberg was required to submit to this arbitration notwithstanding his failure to submit an executed submission agreement. Therefore, he is bound by this panel's rulings and determinations.

Respondent, Concorde Brokerage Corp., in their statement of answer, requested that the arbitration be dismissed. That request was denied by the Presiding Arbitrator on March 22, 1992.

Claimant requested that the necessity to hold an arbitration hearing be suspended in favor of total restitution of the amount claimed by the Claimant. This application was denied by the Chairperson at the initial hearing date on June 9, 1992.

### **AWARD**

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

1. All claims by the Claimant are hereby dismissed in all respects.
2. Each party shall bear their respective costs of this action, including attorneys fees.

### **FORUM FEES**

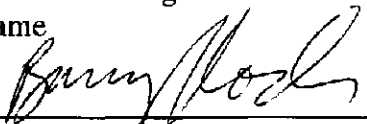
Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed:

\$100.00	Non-refundable filing fee
\$900.00	Hearing session fees
\$300.00	Postponement fee

- 1) Claimant is hereby assessed the non-refundable filing fee of \$100.00. Claimant is entitled to offset this amount with the \$100.00 previously deposited to the NASD.

- 2) Claimant is hereby assessed 1/3 of the hearing session fees in the amount of \$300.00. Claimant is entitled to offset this amount with the \$300.00 previously deposited to the NASD.
- 3) Respondent, Concorde Brokerage Corp., is hereby assessed 1/3 of the hearing session fees in the amount of \$300.00. Concorde is directed to pay this amount to the NASD, Inc.
- 4) Respondent, Michael Eisenberg, is hereby assessed 1/3 of the hearing session fees in the amount of \$300.00. Mr. Eisenberg is directed to pay this amount to the NASD Inc.
- 5) Respondent, Concorde Brokerage Corp., is hereby assessed the \$300.00 postponement fee and shall pay that amount to the NASD, Inc.

Arbitrator's Signature  
Name

  
Barry Koch, Esq.

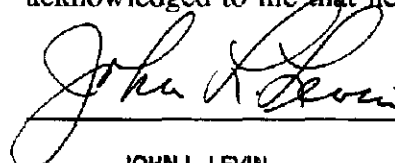
Public Chairperson

Date of Decision: April 2, 1993

STATE OF NEW YORK  
COUNTY OF NEW YORK

S.S.:

On this 31<sup>ST</sup> day of March, 1993, before me personally appeared Barry Koch know and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same.

  
JOHN L. LEVIN  
Notary Public, State of New York  
No. 41-4509178  
Qualified in Queens County  
Commission Expires Mar. 30, 1993