

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Stanley Blacker

91-03618

Name of Respondent

John Fasano

REPRESENTATION

For Claimant, Stanley Blacker ("Blacker"): pro se.

For Respondent, John Fasano ("Fasano"): Herbert M. Jacobi, Esq.

CASE INFORMATION

Statement of Claim filed on January 7, 1992. Claimant's Submission Agreement signed on November 12, 1991.

Statement of Answer filed by Respondent on March 26, 1992.

Respondent, Fasano, did not submit an Executed Submission Agreement as required under Section 12 of the Code of Arbitration Procedure.

CASE SUMMARY

Claimant alleged that on May 11, 1989 he purchased 2000 units of Bio Monitor, Inc. from the firm of First Swiss International Corp. which were erroneously placed in Respondent's father's account. Claimant stated that despite several phone calls to Mr. Fasano by his broker and Respondent's promises to "look into the matter" his securities were never returned to him.

Respondent alleged that he was neither an owner of nor in charge of the back-office of First Swiss, that the error in placing the stock in an incorrect account was in no way occasioned or controlled by Respondent nor can he be held liable for such mistake. Respondent further stated that he believed that the stock of Bio Monitor, Inc. is still in an account owned by his father and that Respondent has repeatedly, at First Swiss and thereafter, attempted to arrange for the transfer of stock to Claimant but that his father who advised and represented that such stock of

Bio Monitor, Inc. will be transferred to Claimant's account when the "niceries of our legal system have been met".

**RELIEF REQUESTED**

Claimant requested an award of damages of \$12,000.00, the amount he paid for the stock, plus any profit that he may have been able to make plus punitive damages.

**OTHER ISSUES CONSIDERED & DECIDED**

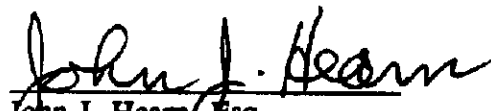
This case was originally scheduled for hearing on September 21, 1992. By agreement of the parties and the Arbitrator the matter was decided by the Arbitrator upon the pleadings and the documentary evidence submitted by the parties.

**AWARD**

The undersigned Arbitrator having considered the proof of the parties, has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent, Fasano, is found liable and shall pay to Claimant the sum of \$12,000.00 plus interest at the legal rate of 12% per annum from May 11, 1989 to date of payment of the Award.
2. Claimant's request for punitive damages is denied.
3. The parties shall each bear all costs and expenses incurred by them in connection with this proceeding.
4. The NASD, Inc. shall retain the \$100.00 filing fee previously deposited by Claimant.

**Arbitrator's Signature**

  
John J. Hearn, Esq.  
(Public Arbitrator)

Date of Award: 5-27-93