

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Names of Claimants

John C. and Shanna Olness

92-00248

Names of Respondents

Biltmore Equities and Securities, Ltd.,
Robert A. Quiel,
Larry H. Malenfant,
Michael L. Quiel and
Mark P. Malenfant

REPRESENTATION

Claimants, John and Shanna Olness were represented by Barry H. Hart, Esq. of Scottsdale, Arizona.

Respondent, Biltmore Equities and Securities, Ltd. did not file an appearance.

Respondents, Robert and Michael Quiel were represented by H. Thomas Fehn, Esq. of Fields, Fehn & Sherwin of Los Angeles, California.

Respondent, Mark P. Malenfant did not file an appearance.

Respondent, Larry H. Malenfant did not file an appearance.

CASE INFORMATION

The Statement of Claim was filed with the National Association of Securities Dealers, Inc. ("NASD") on January 21, 1992.

Claimants, John and Shanna Olness' Submission Agreement was signed on February 5, 1992.

A Joint Statement of Answer was filed with the NASD by Respondents,

Robert and Michael Quiel on March 30, 1992.

Respondent, Robert Quiel's Submission Agreement was signed on March 26, 1992.

Respondent, Michael Quiel's Submission Agreement was signed on March 26, 1992.

Respondents, Larry Malenfant, Mark Malenfant and Biltmore Equities and Securities, Ltd. did not file either Answers to the Statement of Claim or executed Submission Agreements with the NASD.

HEARING INFORMATION

Pre-Hearing Conferences were held on October 20, 1993 for one hearing session and December 21, 1993 for one hearing session.

The hearing took place on March 15, 1994 and lasted for two (2) hearing sessions.

The hearing location was Scottsdale, Arizona.

CASE SUMMARY

Claimants, John and Shanna Olness ("Claimants") alleged that Respondents, Biltmore Equities and Securities, Ltd. ("Biltmore"), Mark Malenfant ("M. Malenfant"), Larry Malenfant ("L. Malenfant"), Robert Quiel ("R. Quiel") and Michael Quiel ("M. Quiel") breached a contract to pay to Claimants the sum of \$154,750.00 for the purchase of 25,000 shares of stock in Movie Super Store, Inc. Additionally, Claimants alleged that the Respondents failed to sell the Movie Super Store, Inc. stock upon the direction of Claimants. Additional claims for breach of the duty of good faith and fair dealing, fraud and civil RICO were asserted against Respondents.

Respondents, R. Quiel and M. Quiel denied the allegations of the claim and asserted that they left the employ of Biltmore in October of 1990. R. Quiel and M. Quiel asserted that in the event a contract was entered into by and between Claimants and Biltmore, they knew nothing of the terms as they were not parties to any such contract.

Respondents, Biltmore, M. Malenfant and L. Malenfant did not file an

Answer to the Statement of Claim.

RELIEF REQUESTED

Claimants requested damages of \$154,750.00 plus interest at 10% per annum, attorneys's fees pursuant to A.R.S. §12-341.01, damages for breach of good faith and fair dealing, treble damages pursuant to A.R.S. §13-2314 and punitive damages.

Respondents, M. Quiel and R. Quiel requested dismissal of the claim and an award of costs and attorney's fees.

OTHER ISSUES CONSIDERED & DECIDED

Respondents, Biltmore, M. Malenfant and L. Malenfant failed to appear at the hearing on March 15, 1993. The panel went forward with the hearing in their absence pursuant to §29 of the NASD Code of Arbitration Procedure ("NASD Code"). The panel found that these respondents were given notice of the claim and the hearing date pursuant to §§25 and 26 of the NASD Code and that these respondents were required to submit to the jurisdiction of the panel pursuant to §12 of the NASD Code. Accordingly, despite to failure to appear and answer the claim, these respondents will be bound by the panel's determination on all issues submitted for consideration.

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. Claimants' claim is denied and dismissed in its entirety; and,
2. The parties shall each bear their own costs, expenses and attorney's fees incurred in this matter.

FORUM FEES

Pursuant to Section 43c of the NASD Code, the following Forum Fees are assessed. The NASD shall retain the \$250.00 non-refundable claim filing fee and the \$1000.00 hearing session deposit previously deposited with the NASD. Additional Forum Fees in the sum of \$1000.00 are assessed to Claimants.

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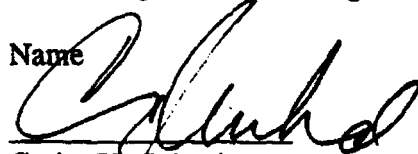
Additional Forum Fees in the sum of \$1000.00 are assessed to Respondent Robert Quiel and additional Forum Fees in the sum of \$1000.00 are assessed to Respondent Michael Quiel. Forum Fees were calculated at the rate of \$1000.00 per hearing session for each of the single hearing session pre-hearing conferences and \$1000.00 for each of the two (2) hearing sessions held on March 15, 1994.

The calculation is as follows: 4 hearing sessions X \$1000.00=\$4000.00 less the Claimants' \$1000.00 hearing session deposit leaves a balance due of \$3000.00.

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

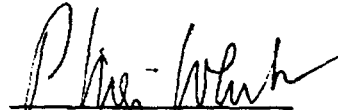
Concurring Arbitrators' Signatures

Name



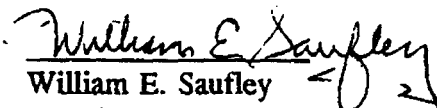
Craig W. Soland, Esq.
Presiding Chairman
Public Arbitrator

4/4/94
Dated



Philip B. Whitaker, Esq.
Panelist
Public Arbitrator

4/15/94
Dated



William E. Saufley
Panelist
Industry Arbitrator

4-19-94
Dated

Date award served on the parties by the NASD: April 25, 1994