

## **N.A.S.D. AWARD**

**NATIONAL ASSOCIATION OF SECURITIES DEALERS. INC.**

In the Matter of the Arbitration Between

**Name of Claimants**

Donald R. and Yvonne Gillies

and

92-00897

**Name of Respondents**

First Choice Securities Corp.,  
Joseph Torres, Michael K. Howard,  
and George Cooper

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### **REPRESENTATION OF PARTIES**

Claimants Donald R. and Yvonne Gillies were represented by Allen Landerman, Esq. of Landerman and Jacobs, P.C., Dallas, Texas.

Respondents First Choice Securities Corp., Joseph Torres, Michael K. Howard, and George Cooper did not appear at the hearing.

### **CASE INFORMATION**

The Statement of Claim was filed on or about March 16, 1992. Submission Agreement of Claimants Donald R. and Yvonne Gillies was signed on January 16, 1992.

Statement of Answer was filed on behalf of Respondent George Cooper on or about December 1, 1992.

### **HEARING INFORMATION**

The hearing was held on Tuesday, May 11, 1993 in Dallas, Texas for a total of one (1) session.

### **CASE SUMMARY**

Claimants alleged that Respondents First Choice Securities Corp., Joseph Torres, Michael K. Howard, and George Cooper made material misrepresentations with respect to certain low priced stocks. Specifically, Claimants alleged that Respondent Joseph Torres misrepresented the bid prices of Zephyr Associates; that Michael Howard failed to advise him of the bid prices for his purchases of Champion Sports, Inc.; that they had received a counterfeit confirmation; and that

unauthorized purchases were made in their account.

In a letter filed on behalf of Respondent George Cooper, it was stated that he had left the firm prior to many of the transactions complained of in the Statement of Claim.

The remaining Respondents did not file answers to the Statement of Claim.

### **RELIEF REQUESTED**

Claimants originally requested an award in the amount of \$11,150.00. This request was later amended to request interest and punitive damages.

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

Upon review of the file and the representations made by/on behalf of the Claimant, the panel has determined that Respondents First Choice Securities Corp., Joseph Torres, Michael K. Howard, and George Cooper had been properly served with the Statement of Claim pursuant to Sections 13 and 25 of the N.A.S.D. Code of Arbitration Procedure (the "Code"). The panel also determined that Respondents First Choice Securities Corp., Joseph Torres, Michael K. Howard, and George Cooper had received due notice of the hearing as required under Section 26 of the Code and that arbitration of the matter would proceed pursuant to Section 29 of the Code.

Respondents First Choice Securities Corp., Joseph Torres, Michael K. Howard, and George Cooper did not file with the N.A.S.D. properly executed submissions to arbitration but are required to submit to arbitration pursuant to Section 12 of the N.A.S.D. Code of Arbitration Procedure (the "Code") and are bound by the determination of the arbitration panel on all issues submitted.

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 original(s) remain on file with the N.A.S.D..

### **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. Respondents First Choice Securities Corp., Joseph Torres, Michael K. Howard, and George Cooper shall be and hereby are jointly and severally liable for and shall pay to the Claimants the sum of Thirty one thousand six hundred twenty seven dollars and fifty cents (\$31,627.50). The above stated sum includes an award of punitive damages in the

amount of \$15,000.00. In awarding punitive damages the undersigned arbitrators considered the authorities presented on behalf of the Claimants.

2. Each party shall bear its own costs, expenses and attorney's fees incurred in this matter not specifically enumerated herein.

#### **FORUM FEES**

Pursuant to Section 43(c) of the N.A.S.D. Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. ("N.A.S.D.") shall retain the non-refundable filing fee in the amount of \$150.00 and shall retain as forum fees the hearing session deposit in the amount of \$500.00 previously deposited with the N.A.S.D. by the Claimant. Respondents First Choice Securities Corp., Joseph Torres, Michael K. Howard, and George Cooper shall be and hereby are jointly and severally liable for and shall pay to the Claimants the sum of \$500.00 as reimbursement of the hearing session deposit.

Forum fees are calculated at the rate of \$500.00 per hearing session and \$300.00 for each prehearing conference, if any.

The N.A.S.D. shall retain postponement fees in the amount of \$500.00 previously deposited with the N.A.S.D. by the Claimants. Fees are payable to the National Association of Securities Dealers, Inc.

Dated:

s/ Marc A. Myrin, Esq.  
Marc A. Myrin, Esq.  
Public Arbitrator, Presiding Chair

May 25, 1993

s/ Winston C. Fournier  
Winston C. Fournier  
Public Arbitrator

May 25, 1993

s/ Samuel P. Mitchell  
Samuel P. Mitchell  
Industry Arbitrator

May 25, 1993