

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between :
:
F. Gordon Boyle :
:
Claimant :
:
vs. :
CASE #92-02253
AWARD
:
Paragon Capital Corporation :
Anthony Pata :
:
Respondents :

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on July 8, 1992, Claimant F. Gordon Boyle, who appeared Pro Se, alleged that on August 21, 1991 Respondent Anthony Pata of Respondent Paragon Capital Corporation contacted him to notify him that he would be servicing Claimant's account, at which time, Respondent Anthony Pata suggested Claimant sell his 4,000 shares of Quadrax because it was going nowhere. Claimant further alleged that Respondent Anthony Pata went over what his cost was, at which time, Claimant stated that if he could break even on the trade he probably would sell it. Claimant contended that on May 4, 1992 he received a confirmation of an unauthorized sale of his Quadrax stock and Claimant immediately contacted Respondent Anthony Pata to inquire about the sale. Claimant further contended that he advised Respondent Anthony Pata that he had no recollection of a sell order and specifically remembered telling Respondent Anthony Pata to contact him only if he could break even. Claimant asserted that Respondent Anthony Pata's inappropriate handling of his account with his unauthorized trade and Respondent Paragon Capital Corporation failure to rectify the matter, caused him to sustain damages.

Respondent Paragon Capital Corporation, by and through their Assistant Compliance Officer, Jerome J. Schwarzman, maintained that Claimant F. Gordon Boyle held an account with them and that on April 27, 1992, 4,000 shares of Quadrax Corp. were sold in Claimant's account by the broker of record, Respondent Anthony Pata. Respondent Paragon Capital Corporation further maintained that the commission charge as indicated on a commission schedule published by their clearing broker, Bear, Stearns Securities Corp. was \$405.00. Respondent Paragon Capital Corporation contended that they deny all allegations and Claimant's claim is without merit.

Respondent Anthony Pata, who appeared Pro Se, maintained that on April 21, 1992 he spoke to Claimant F. Gordon Boyle to advise him that he would be handling his account, at which time, Claimant reviewed his positions and asked for information on the Quadrax Corp. stock. Respondent Anthony Pata further maintained that he did not solicit the sell order, as it was Claimant's feeling the stock had a tendency to go to 1 1/16 and then go back down, at which time, Claimant mentioned that he no longer cared for the stock or the company Quadrax Corp. and stated that based on his cost he could "break about even" at 1 1/16 whereby Claimant asked Respondent Anthony Pata to place an order to sell his 4,000 shares of Quadrax Corp. at 1 1/16 when it gets there. Respondent Anthony Pata contended that on April 27, 1992 the sale was executed at 1 1/16 and the trade was done agency based on the Bear, Stearns & Co., Inc. commission schedule. Respondent Anthony Pata further contended that he followed Claimant's explicit instructions, therefore, he is not liable for any alleged damages.

RELIEF REQUESTED

Claimant F. Gordon Boyle requested \$371.00 in actual damages.

Respondent Paragon Capital Corporation requested the claim be denied.

Respondent Anthony Pata requested the claim be dismissed.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Kathryn P. Beller, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on July 1, 1992, by the Respondent Paragon Capital Corporation on August 31, 1992 and by the Respondent Anthony Pata on August 14, 1992.

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. The claims of Claimant F. Gordon Boyle against Respondents Paragon Capital Corporation and Anthony Pata are dismissed.
2. The parties shall bear their respective costs.

3. The \$30.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant F. Gordon Boyle shall be retained by the NASD, Inc. Respondents Paragon Capital Corporation and Anthony Pata are jointly and severally liable and shall pay to the Claimant the sum of \$30.00.

AFFIRMATION

I, Kathryn P. Beller, Esq., 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.

Kathryn P. Beller

Signature of Arbitrator

DATE OF DECISION: November 23, 1992