

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

**NATIONAL ASSOCIATION OF SECURITIES DEALERS**

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**In the Matter of the Arbitration Between**

**Name of Claimants**

**Clarence R. and Sandra S. Boles**

**92-02409**

**Name of Respondents**

**Steve Cohen**

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**CASE SUMMARY**

In a claim filed with the National Association of Securities Dealers, Inc. ("NASD") on July 21, 1992, Claimants Sandra S. Boles and Clarence R. Boles, Jr. ("Boles"), who appeared pro se alleged that Stratton Oakmont, inc. ("Stratton Oakmont") and the Respondent Steve Cohen ("Cohen"), an employee of Stratton Oakmont, used coercive selling techniques and "boiler room" sales tactics to sell unsuitable stocks to them. After receiving a call and a high pressure sales pitch from Ray Saulon of Stratton Oakmont on October 23, 1991, the Claimants opened a joint account with Stratton Oakmont and purchased 100 shares of Glaxo stock; subsequently, after the stock split, the Claimants bought another 100 shares of Glaxo. On January 8, 1992 after receiving a call from Mike Wilhelm of Stratton Oakmont, Mr. Boles purchased 100 shares of Sara Lee stock. Mr. Boles on January 21, 1992 received a call from Steve Cohen, Saulon's supervisor, who allegedly made a high pressure sales pitch for 10,000 shares of Visual Equities, at \$3.50 per share, guaranteeing that the stock would double and probably triple in price in 30 to 45 days. Mr. Boles repeatedly stated that he did not have \$30,000.00 to make the purchase and could not, and did not, want to make such a large investment. The Claimants contend that Cohen gave Mr. Boles the impression that he could rescind the trade anytime and did not inform the Claimant of the 1/2 point spread in the bid/asked price or risk of the stock. Mr. Boles somehow agreed to the trade believing he could cancel. As alleged, Mrs. Boles called Cohen the same day to cancel trade and, after being informed that Cohen had left the office and that Saulon was unavailable, Mrs. Boles told Mary Richards, a secretary at Stratton Oakmont, of her desire to cancel the trade. Cohen returned the call the next day and allegedly refused to cancel the trade yet

agreed to lower the amount of shares purchased to 8,000 and declining to further reduce the number of shares purchased. The Claimants further contend that Mrs. Boles asked Cohen to sell the 8,000 shares and that Cohen refused to execute the sell order until the entire amount of the purchase was paid; refused to execute an order from Mrs. Boles since his computer indicated that Mr. Boles was the only person listed on the joint account; and became verbally abusive, intimidating her. The Claimants paid for the stock in January 1992 deciding they had no choice except to see what the stock would do. In late February 1992, Cohen allegedly offered to let the Claimants sell the Visual Equities stock if they would invest the total amount in Nutrition Management Systems Units. The Claimants declined the offer and again requested Cohen to sell the Visual Equities stock to no avail. After becoming aware of an alleged SEC investigation of Stratton Oakmont with respect to Visual Equities, and placing a sell order with Mary Richards on April 16, 1992, the Claimants received a check for \$12,990.00 for the sale of Visual Equities, realizing a loss of \$12,060.00. Unaware of the sale, Cohen contacted the Claimants on April 29, 1992 recommending selling the stock and apologizing for convincing them to purchase Visual Equities.

Respondent Steven Cohen, through his representative Roger M. Deitz, Esq., maintained that Mrs. Boles was knowledgeable of publicly traded companies and had access to a telephone stock quote service, and Quotron machines, in addition to checking the price and volume daily in the Wall Street Journal. Cohen alleged that, after paying for the trade, the Claimants decided to see what the stock would do, and placed an order to sell all 8,000 shares more than three months after the purchase.

#### HEARING INFORMATION

Hearing Date/Session: January 26, 1993 for One (1) hearing session.

#### RELIEF REQUESTED

Claimants Sandra S. Boles and Clarence R. Boles, Jr. requested \$2,060.00 in actual damages from Respondent Steven Cohen.

Respondent Steven Cohen requested that the claims of the Claimants be dismissed.

#### OTHER ISSUES CONSIDERED & DECIDED

The Claimants requested to file an additional list of charges against Steven Cohen and Steven Cohen requested to file a Statement since he did not file a Statement of Answer. The Arbitrator granted both requests on September 10.

1993.

*prior to the Claimants  
settling the  
prior to the  
hearing  
commenced*

The Claimants initially named Stratton Oakmont, Inc. and Steve Cohen as Respondents and requested a total of \$12,060.00 in actual damages from both Respondents. A hearing session before three arbitrators, Michael Stewart, Esq., Michaela Meyers and James C. Gibbons, was held on January 26, 1993. During this session, a disclosure was made and Arbitrator Michaela Meyers recused herself from the panel; the hearing was postponed. Subsequently, the Claimants settled their claims against Respondent Stratton Oakmont, Inc. and filed an amendment to their claim naming Steve Cohen as the sole Respondent. The Claimants requested that the matter be considered by one Arbitrator without further hearing sessions in accordance with Section 13 of the NASD Code of Arbitration Procedure. The matter proceeded as a Simplified Arbitration case with the approval of Steve Cohen through his Counsel, Roger M. Deitz, Esq.

*The  
Claimants  
subsequent*

#### AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Michael M. Stewart, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on July 6, 1992 and not by the Respondent as required by Sections 12 & 13 of the NASD Code of Arbitration Procedure.

1. In accordance with Section 13 of the NASD Code of Arbitration Procedure the Respondent Steven Cohen was served by regular mail on August 4, 1992 and given an opportunity to respond, he failed to do so.
2. Respondent Steven Cohen was notified on September 28, 1992 via certified mail that his Answer was overdue. The signed certified receipt was returned to the NASD dated October 1, 1993 evidencing his receipt of this correspondence. The NASD received an appearance on behalf of Mr. Cohen from Scott M. Zucker, Esq. The Respondent Steven Cohen was notified through his attorney on December 10, 1992 via certified mail of the selected arbitrator pursuant to Section 21 of the NASD Code of Arbitration Procedure. The signed certified mail receipt was returned to the NASD dated December 14, 1992 evidencing his attorney's receipt of this correspondence.
3. Respondent Steven Cohen failed to file an Answer to the Statement of Claim.

4. Pursuant to the By-Laws of the NASD the Arbitrator determined that Respondent Steven Cohen was required to submit to this arbitration proceeding and is therefore, bound by the Arbitrator's ruling and determination.

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. Respondent Steven Cohen is liable for and shall pay to the Claimants Sandra S. Boles and Clarence R. Boles, Jr. the sum of \$2,060.00.
2. The parties shall bear their own respective costs except for the Forum Fees which are addressed below.

#### FORUM FEES

Pursuant to Section 43 of the NASD Code of Arbitration Procedure, the following forum fees are assessed. The \$500.00 filing fee previously deposited with the NASD by the Claimants Sandra S. Boles and Clarence R. Boles, Jr. shall be retained by the NASD. Respondent Steven Cohen is liable for and shall pay to the Claimants the sum of \$500.00, as reimbursement.

#### AFFIRMATION

I, Michael M. Stewart, 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.

  
Signature of Arbitrator

Date of Decision: November 26, 1993.