

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Monika M. Strauss

Claimant

vs.

CASE #92-02725

John F. Yakimcyk

Respondent

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on August 14, 1992, Claimant Monika M. Strauss who appeared Pro Se, alleged that on February 7, 1991 Respondent John F. Yakimcyk, Investment Executive with Schneider Securities, Inc. promised her a short-term high profit investment, whereby Claimant purchased \$1,020.00 of LaSorda Food stocks and subsequently, on April 4, 1991 she paid an additional \$1,013.75 for the same stocks, then on May 15, 1991 paid \$1,007.50 for stocks in Newport Investments, Inc. due to Respondent's promise that it was a highly profitable investment. Claimant further alleged that about six weeks later she called Respondent to ask him to sell, at which time, Respondent would not, whereupon he assured her that soon she would see a substantial profit and later she once again requested to sell but Respondent would not. Claimant contended that she later found out there was no market for her stocks and mailed a letter to Schneider Securities, Inc. on July 18, 1992 to which she has not heard anything. Claimant further contended that Respondents inappropriate handling of her funds, and misrepresentations, caused her to sustain losses.

Respondent, John F. Yakimcyk who appeared Pro Se maintained that at no time prior to July 17, 1992 did Claimant Monika M. Strauss tell him she wanted to sell her stock. Respondent further maintained that Claimant called him and insisted she receive her investment back plus interest, at which time, Respondent informed Claimant that he would check if there was a market for her stock, since Schneider Securities, Inc. stopped making a market in both stocks because of the new NASD and SEC requirements regarding penny stocks. Respondent contended that both stocks were not trading and informed Claimant of this, whereby Respondent kept Claimant informed about all aspects of the stocks. Respondent further contended that Claimant signed the required 15C26 letters and stated, she was capable of understanding and assuming the risks of these transactions, therefore, the claim should be dismissed.

RELIEF REQUESTED

Claimant. Monika M. Strauss requested \$3,102.63 in actual damages.

Respondent John F. Yakimcyk 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, Albert S. Gilles, Esq. was selected a review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on August 4, 1992 and by the Respondent on November 6, 1992.

And, the Arbitrator, having considered the proof to the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Respondent John F. Yakimcyk is liable and shall pay to the Claimant Monika M. Strauss the sum of \$1,520.62 in actual damages.
2. Evidence in the record indicates the companies represented by the securities here in controversy: MAY be viable. If such is found to be the case, then the Claimant and Respondent shall share equally in the ownership of such securities and the Respondent, forthwith, shall handle the appropriate transfers of title to effect this order, without cost to the Claimant.
3. The parties shall bear their respective costs.
4. The \$125.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Monika M. Strauss shall be retained by the NASD, Inc. Respondent John F. Yakimcyk is liable and shall pay to the Claimant the sum of \$62.50 as partial reimbursement.

Page Three
Award 92-02725

AFFIRMATION

I, ALBERT S. GILLES, 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.

Albert S. Gilles

Signature of Arbitrator

DATE OF DECISION: 3/16/93

DATED BY THE NASD, INC.: March 16, 1993