

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimants

Alfred L. and Bernice E. Licari

92-02800

Name of Respondent

Werlitz Securities Inc.

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CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on August 20, 1992, Claimants Alfred L. & Bernice E. Licari, through their counsel, Dale P. Aho, Esq. of Aho & Potti, Farmington, MI. alleged that Respondent Werlitz Securities, Inc. made an error when they requested 10,000 shares of Delmed stock be sold, and instead the Respondent sold 10,000 shares of Del Electronics stock, causing it to have to buy-in the shares at a higher price than sold. The Claimants further alleged that they returned the proceeds check from the erroneous sale, but that Respondent Werlitz Securities, Inc. failed to pay them the correct proceeds. The Claimants contended that they are entitled to be paid for their sale of Delmed stock.

Respondent Werlitz Securities, Inc., through its in-house counsel, Thomas McCabe, maintained that the Claimants did not mention that Delmed stock was to be sold and used only the symbol "Del" when placing the order. The Respondent maintained that the Claimants signed the confirmation reflecting Del Electronics stock sold, and that upon discovery of their error, they agreed to the buy-in and that they would cover the debit caused by the price having climbed since the sale. The Respondent contended that due to the Claimants' failure to make prompt and sufficient payment to cover the entire debit, it was forced to liquidate some of the securities in their account.

**RELIEF REQUESTED**

Claimants Alfred L. & Bernice E. Licari requested \$3,187.50 in actual damages.

Respondent Werlitz Securities, Inc. requested that the claims of the Claimants be dismissed and that it be awarded its costs and attorney's fees.

**AWARD**

Pursuant to Section 13 of the National Association of Securities, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Marc E. Thomas, 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 August 17, 1992 but not signed by the Respondent as required by Sections 12 & 13 of the NASD Code of Arbitration Procedure.

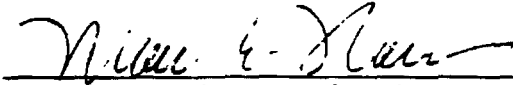
And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Respondent Werlitz Securities, Inc. is liable and shall pay to the Claimants Alfred L. & Bernice E. Licari \$1,500.00 in actual damages.
2. The parties shall bear their respective costs and attorney's fees.
3. The \$125.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants shall be retained by the NASD, Inc. Respondent Werlitz Securities, Inc. is liable and shall pay to the Claimants \$125.00 as reimbursement of this fee.

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**AFFIRMATION**

I. **MARC E. THOMAS, 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.

  
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Signature of Arbitrator

DATE OF DECISION:      March 2, 1993