

PUBLIC

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Michael A. Diodata

92-04196

Name of Respondent

Robert C. Perlman

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on December 15, 1992, Claimant Michael Diodata, who appeared Pro Se, alleged that Respondent Robert Perlman, while employed by Jonathan Allen & Co., Inc., sold his Innovet stock with out his authorization or approval and then purchased Heartsoft stock for him, also without his knowledge or consent. The Claimant further alleged that his name was forged in order to sell the stock and that he was never made aware that the firm of Jonathan Allen & Co., Inc. had gone out of business and his account was moved. The Claimant contended that Respondent Robert Perlman should be held liable for his wrongdoing.

Respondent Robert C. Perlman, who appeared Pro Se, maintained that he has no recollection of ever speaking to the Claimant, and that he did not receive his Florida License approval until March 12, 1990 causing him to believe it was not he who entered these two transactions, but that it might have been the home office of the Tampa office instead. The Respondent contended that the firm First Gateway, which had taken over the former Jonathan Allen & Co., Inc. accounts, was responsible for many First Gateway transactions, and that he should not be held liable in this matter.

RELIEF REQUESTED

Claimant Michael Diodata requested \$6,500.00 in actual damages.

Respondent Robert Perlman requested that the claims of the Claimant made against him be dismissed.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Gary M. Landau, 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 December 8, 1992 and by the Respondent on January 19, 1993.

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 the Claimant Michael Diodata against Respondent Robert Perlman are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc.

AFFIRMATION

I, GARY M. LANDAU, 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: July 14, 1993

REPORT OF ARBITRATOR

Although the Claimant may have been subject to unauthorized trading, the Claimant has not proven that it was Mr. Robert Perlman who personally made the transaction in question. Accordingly, the claim is dismissed.

Gary M. Jacob