

PUBLIC

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Aaron and Sophie B. Blecker

92-04317

Name of Respondents

Mutual Services, Inc., Division of
Cowles, Sabol & Company, Inc.
Gregory E. Ricca

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on December 28, 1992. Claimants Aaron & Sophie B. Blecker, who appeared Pro Se, alleged that they dealt with Respondent Mutual Services, Inc., a division of Cowles, Sabol & Company, Inc. and when they received their statement for July, Claimant Aaron Blecker immediately contacted Respondent Gregory E. Ricca, Account Executive, at Respondent Mutual Services, Inc., about the unauthorized purchase of 850 Virtual Reality, Inc. at 5 1/2 at which time, the subsequent sale which netted a loss of \$1,536.25. Claimants further alleged that the loss was made up from a deduction from Claimants' cash account and the sale of 250 shares of Playtime Toys, whereby Respondent Gregory E. Ricca assured them the action was a mistake and it would be corrected in their next statement. Claimants contended that before the next statement arrived the office was closed and they could not reach Respondent Gregory E. Ricca, whereby Claimants later received a letter from the parent company, Cowles, Sabol & Company, Inc. that Respondent Gregory E. Ricca had resigned. Claimants further contended that because of Respondents' unauthorized transactions, they suffered a loss of \$1,536.25 in their account.

Respondent Cowles, Sabol & Company, Inc. by and through William L. Sabol is a registered broker/dealer and a member of the NASD, whereby the firm operates a division known as Mutual Securities, Inc. which is a full service brokerage. Respondent maintained that they supplied Claimants Aaron & Sophie B. Blecker with written notification of each transaction and a monthly statement of account which summarized all transactions and positions. Respondent further maintained that the transactions were unsolicited and on both confirmations, in addition

to the monthly statements. Claimants were informed that unless Respondent was notified in writing within specific time periods, Claimants accepted confirmations and statements as to accuracy and completeness. Respondent contended that Claimants are barred from recovery by their own negligence, by their knowing acceptance of confirmations of transactions from this Respondent and by the authorized nature of such transactions.

Respondent Gregory E. Ricca failed to file an Answer to the Statement of Claim.

RELIEF REQUESTED

Claimants Aaron and Sophie B. Blecker requested \$1,536.25 in actual damages.

Respondent Mutual Securities, Inc., division of Cowles, Sabol & Co., Inc. requested that claim be denied.

Respondent Gregory E. Ricca failed to file an Answer to the Statement of Claim.

OTHER ISSUES CONSIDERED & DECIDED

In accordance with Section 13 of the NASD Code of Arbitration Procedure the Respondent Gregory E. Ricca was served a copy of the Statement of Claim by regular mail on January 21, 1992 and given an opportunity to respond, which he failed to do. Respondent Gregory E. Ricca was notified on March 3, 1993, via certified mail, that his Statement of Answer was overdue. The signed certified mail receipt was returned to the NASD, evidencing his receipt of this correspondence. Respondent Gregory E. Ricca was notified on March 10, 1993, 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 date stamped March 17, 1993, evidencing his receipt of this correspondence. Respondent Gregory E. Ricca failed to file an Answer to the Statement of Claim.

Pursuant to the By-Laws of the NASD the arbitrator determined that Respondent Gregory E. Ricca was required to submit to this arbitration proceeding and is, therefore, bound by the arbitrator's ruling and determination.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Marc L. Ripp, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to

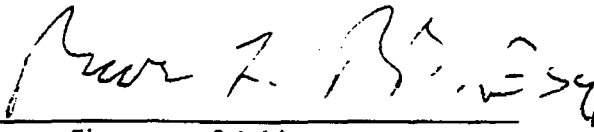
Arbitration signed by the Claimants on December 21, 1992, by the Respondent Mutual Securities, Inc., a division of Cowles, Sabol & Company, Inc. on February 3, 1993 and not by the Respondent Gregory E. Ricca as required by Sections 12 & 13 of the NASD Code of Arbitration Procedure.

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. Respondents Mutual Securities, Inc., a division of Cowles, Sabol & Company, Inc. and Gregory E. Ricca are jointly and severally liable and shall pay to the Claimants Aaron and Sophie B. Blecker the sum of \$1,536.25 in damages.
2. The parties shall bear their respective costs.
3. The \$50.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants Aaron and Sophie B. Blecker shall be retained by the NASD, Inc. Respondents Mutual Services, Inc. a division of Cowles, Sabol & Company, Inc. and Gregory E. Ricca are jointly and severally liable and shall pay to the Claimant the sum of \$50.00 as reimbursement.

AFFIRMATION

I, MARC L. RIPP, 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: May 21, 1993

STATE OF: Illinois

SS:

COUNTY OF: Cook

On this 17th day of May 1993, before me personally appeared Marc L. Ripp, Esq. to me known and known before me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

Carol L. Uzzardi

CAROL L. UZZARDI
A NOTARY PUBLIC OF NEW JERSEY
My Commission Expires May 3, 1995