

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Carla M. Miller

MODIFIED AWARD

93-01249

Name of Respondents

Brent Jay
James B. Castles

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on March 30, 1993, Claimant Carla M. Miller, who appeared Pro Se, alleged that Respondent James B. Castles, an employee of International Business Securities ("IBS") purchased, without her authorization, 5,065 shares of UniVite stock, and that although the Respondent acknowledged the mistake, it remains uncorrected. The Claimant contended that due to the wrongdoing of Respondents James Castles and Brent Jay (as Chairman of IBS), they should be held liable for the losses she has incurred due to this unauthorized transaction.

Respondents James B. Castles and Brent Jay, through their counsel H. Thomas Fehn, Esq., maintained that the purchase of UniVite stock appeared in the Claimant's account in error, and that rather than cancel the transaction, the Claimant expressed interest about this investment, and after reviewing information on the stock, decided to keep it. The Respondents further maintained that Claimant Carla Miller executed a non-solicitation letter, which she now claims was forged. The Respondents contended they have no knowledge of any forgery, and that the securities stayed in the Claimant's account from September 1991 to the present with no complaint until she filed one in January of 1993 with the NASD District Business Conduct Committee. Respondents James B. Castles and Brent Jay further contended that they have committed no wrong, and therefore, should not be held liable in this matter.

In an amendment to her claim, the Claimant contended that she did not sign an unsolicited letter authorizing the purchase of UniVite, that she did not see the letter until the Respondents filed it in response to her regulatory complaint, and she could not have signed it, because she was nowhere within contact with the Respondents during the time period in which it was signed.

RELIEF REQUESTED

Claimant Carla M. Miller requested \$10,000.00 in actual damages, plus interest, along with punitive damages and costs.

Respondents James B. Castles and Brent Jay requested that the claims of the Claimant be dismissed.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, John Sparrow, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on March 17, 1993, by the Respondent James B. Castles on June 1, 1993 and by Respondent Brent Jay on June 1, 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 Carla M. Miller against Respondents James B. Castles and Brent Jay are dismissed in their entirety.
2. The Claimant's request for punitive damages is denied.
3. The parties shall bear their respective costs.
4. 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. Respondents Brent Jay and James B. Castles are jointly and severally liable and shall pay \$150.00 to the Claimant as reimbursement.

AFFIRMATION

I, JOHN SPARROW, 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: December 27, 1993