

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimants

Peter M. and Bertha Sniady

93-01290

Name of Respondent

Pacific Brokerage Services, Inc.

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CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on April 1, 1993, Claimants Peter M. and Bertha Sniady, who appeared Pro Se, alleged that on January 25, 1993 they called Respondent Pacific Brokerage Services to sell 200 shares of Novell at 31 5/8 and to buy 200 shares of Oracle at 34 1/2 only after the Novell was sold. Claimants further alleged that that evening they called Respondent and were told the Novell stock was not sold. Claimants contended that on January 26, 1993, in the morning, they called Respondent and again were told that Novell was not sold whereby Claimants told Respondent not to sell Novell but instead sell 100 shares of H.J. Heinz at market and to buy 200 shares of Oracle at market. Claimants further contended that as soon as they hung up the phone, a young lady from Respondent called to tell them that Novell was sold whereby Claimants informed her of their previous conversation, at which time a man came on the line and Claimants explained to him that they were told that Novell was not sold twice, and that Claimants requested instead to sell 100 shares of H.J. Heinz at market and to buy 200 shares of Oracle at market. Claimants asserted that on January 26, 1993 late in the afternoon Claimants were called and told that they had sold 100 shares of H.J. Heinz at 41 1/2 and bought 200 shares of Oracle at 35 1/8, whereby the next day Claimants called to find out what was owed to Respondent, at which time, Claimants were told to send their certificate for 100 shares of H.J. Heinz and \$2,933.14 to settle. Claimants further asserted that they did this and a few days later, Claimants were called by Respondent by and through Bob Petrucci, New York office manager, and were told they sold 100 shares of H.J. Heinz at 41 1/2 and bought 200 shares of Oracle at 35 3/4, whereby, Claimants told him they received the information of buying and selling on January 26, 1993 and they had sent over the certificate and \$2,933.14; however, Mr. Petrucci insisted Claimants made trades dated February 1, 1993. Claimants further alleged that they did not make this second set of trades and that Respondent made the mistake, thus they should be held liable.

Respondent Pacific Brokerage Services, Inc. by and through their Compliance Officer James R. Kruger, maintained that Claimants Peter M. and Bertha Sniady have not made a bonafide claim, as required by the NASD Code of Arbitration Procedure (the "Code"), and Respondent reject and deny the claim and request dismissal of the action pursuant to the Code. Respondent further requested that Claimants be more specific regarding their claim and if Claimants do not clarify their claim, then Respondent will not participate in the arbitration because they are unable to prepare a proper defense and submit an answer in this matter.

### **RELIEF REQUESTED**

Claimants Peter M. and Bertha Sniady requested the return of their certificate for 200 shares of Oracle.

Respondent Pacific Brokerage Services, Inc. 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, Erica Colette Bushner, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on March 24, 1993 and not 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. The claim of Claimants Peter M. and Bertha Sniady against Respondent Pacific Brokerage Services, Inc. is dismissed.
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 Claimants Peter M. and Bertha Sniady shall be retained by the NASD, Inc. Respondent Pacific Brokerage Services, Inc. is liable and shall pay to the Claimants the sum of \$150.00, as reimbursement.

**AFFIRMATION**

I, **ERICA COLETTE BUSHNER**, 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.

Erica C. Bushner  
Signature of Arbitrator

DATE OF DECISION: December 1, 1993