

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Larry J. Laughlin

93-02961

Name of Respondents

Advance Equity Group, Inc.  
Aaron Fischman

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**CASE SUMMARY**

In a claim filed with the National Association of Securities Dealers, Inc. on July 30, 1993, Claimant Larry J. Laughlin, who appeared Pro Se, alleged that he was sold the stock Big Boy Pac. Inc. New ("BGBP") with a promise that Respondent Advance Equity Group, Inc. was a market maker and that Respondents were placing a large block with an institution within 2 to 3 weeks whereby this would be a one time opportunity to make a sure \$3.00 or 3 points on each share. at which time, Respondent Aaron Fischman said the institution would be paying \$8.00 a share, and he would be handling the transaction. Claimant further alleged that at first he told Respondent Aaron Fischman it was too good to be true, but Respondent Aaron Fischman reassured him that he was a big time institutional trader in New York and had these opportunities all the time, and if Claimant did this trade he would made more opportunities available to him, but Claimant had to commit on this phone conversation. Claimant contended that he agreed and subsequently contacted another broker he does business with to ask him about the stock BGBP, at which time, he claimed that he could not find it on his computer screen under NASDAQ stocks. Claimant contended that the next day he called Respondent Aaron Fischman to tell him her did not want to go through with this trade because he could not even find the stock listed whereby Respondent Aaron Fischman said don't worry.. "I control all the stock on this company, I have a very small float so I can control the price so just trust me you will make money guaranteed," at which time Claimant agreed but that he wanted to check it out some more. Claimant further contended that he still could not find out anything about the company, leading him to believe that Respondent Aaron Fischman might be correct that he or Respondent Advance Equity Group, Inc. controlled all the stock. Claimant asserted that as a week went by he called Respondent Aaron Fischman to say he may not have the \$5,265.00 to

send in. at which time, Respondent Aaron Fischman replied that he would give Claimant an extra 10 days to get the money in. which Claimant eventually sent in along with the paperwork. Claimant further asserted that after the transaction Claimant could not reach Respondent Aaron Fischman at which time, he received a quote from Respondent Advance Equity Group, Inc. of \$1.75 to \$2.00 for Big Boy Pac. Inc. with a high for the year of \$3.50 to \$4.00. Claimant further alleged that hearing the quote he realized that he was taken; however, he continued to try to get in touch with Respondent Aaron Fischman almost daily until Claimant found out that Respondents were out of business. Claimant further contended that Respondents' misrepresentation and mishandling of his funds caused him to sustain losses, thus Respondents are liable.

Respondent Advance Equity Group, Inc. failed to file an Answer to the Statement of Claim.

Respondent Aaron Fischman failed to file an Answer to the Statement of Claim.

#### **RELIEF REQUESTED**

Claimant Larry J. Laughlin requested \$5,265.00 in actual damages.

Respondent Advance Equity Group, Inc. failed to file an Answer to the Statement of Claim.

Respondent Aaron Fischman 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 Respondents Advance Equity Group, Inc. and Aaron Fischman were served by regular mail on August 4, 1993 and given an opportunity to respond, which they failed to do.

Respondent Advance Equity Group, Inc. was notified via certified mail, on September 30, 1993 that their Statement of Answer was overdue. The certified mail receipt was returned "refused" to the NASD and subsequently, re-sent by regular mail which has not been returned. Respondent Advance Equity Group, Inc. was notified, via certified mail, on October 1, 1993 of the selected arbitrator pursuant to Section 21 of the NASD Code of Arbitration Procedure. The certified mail receipt was returned "refused" to the NASD, and subsequently re-sent by regular mail which has not been returned.

Respondent Advance Equity Group, Inc. failed to file an Answer to the Statement of Claim.

Respondent Aaron Fischman failed to file an Answer to the Statement of Claim.

Pursuant to the By-Laws of the NASD the arbitrator determined that Respondents Advance Equity Group, Inc. and Aaron Fischman were required to submit to this arbitration proceeding and are, 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, Casandra Mihalchich, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on July 26, 1993 and not signed by the Respondents Advance Equity Group, Inc. and Aaron Fischman 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 Advance Equity Group, Inc. and Aaron Fischman are jointly and severally liable and shall pay to the Claimant Larry J. Laughlin the sum of \$5,265.00 in damages.
2. Respondents Advance Equity Group, Inc. and Aaron Fischman are jointly and severally liable and shall pay to the Claimant Larry J. Laughlin simple interest at the rate of 4% per annum from February 24, 1993 to the date of payment of the award.
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 Larry J. Laughlin shall be retained by the NASD, Inc. Respondents Advance Equity Group, Inc. and Aaron Fischman are jointly and severally liable and shall pay to the Claimant the sum of \$150.00, as reimbursement.

Page Four  
Award 93-02961

**AFFIRMATION**

I, CASANDRA MIHALCHICK, 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: NOVEMBER 26, 1993