

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Martin H. Lamb

93-03111

Name of Respondents

Stratton Oakmont, Inc.  
Joseph Teseo  
Frank Skelly

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**CASE SUMMARY**

In a claim filed with the National Association of Securities Dealers, Inc. on August 10, 1993, Claimant Martin H. Lamb, who appeared Pro Se, alleged that some time in early 1992, Respondent Joseph Teseo of Respondent Stratton Oakmont, Inc., contacted him through a cold call, whereby Claimant being in the real estate business that demands cold call phone work, sympathized with him and wanted to help him out at which time, Respondent Joseph Teseo sold him 100 shares of Toyota Motor Corp. at \$23.00 a share. Claimant further alleged that in June 1992, Respondent Joseph Teseo called him to say he had an aggressive "growth" stock, PDK Labs, that had a hot new product that was going to make the company take off at which time, Respondent Joseph Teseo said that he would stake our entire relationship on the success of this stock, and that he would take practically no commission on the trade as a show of good faith whereby Claimant had some extra cash and was interested in buying a "growth" stock and told Respondent Joseph Teseo that he was not a long term investor and may need the money at some point in 1993. Claimant contended that Respondent Joseph Teseo suggested that he buy 1,000 shares of the "preferred" stock which paid a dividend and on June 25, 1992 Claimant bought 1,000 shares of PDK preferred stock at \$9.00 a share. Claimant further contended that by the time he received a statement, on June 30, 1992, it had already dropped \$1.00 per share to \$8.00 at which time, Claimant was further surprised to see that Respondent Stratton Oakmont, Inc. made a market in this security, a fact Respondent Joseph Teseo had not told him. Claimant asserted that Respondent Joseph Teseo sent him several brochures on PDK telling him it was essential that he buy more now, and that the Toyota stock was going nowhere therefore, Claimant ought to sell it and pick up more PDK. Claimant further asserted that Respondent Joseph Teseo used high pressure tactics suggesting how much he should buy, not taking no for

an answer, even willing to place the order for the amount he thought he should buy after he told him there was not enough money in checking to cover it. Claimant further alleged that on July 24, 1992, he reformed, sold his Toyota at a small loss and picked up 1,000 shares of PDK Labs at \$3.875 per share whereby Respondent Joseph Teseo assured him that he was "not some snooty nosed kid" but someone who knew what he was doing and he was willing to "stake our entire relationship on the success of this stock". Claimant further contended that when he asked Respondent Joseph Teseo about his firm making a market in this security, Respondent Joseph Teseo let him know that this fact was an advantage because it gave him an insiders knowledge of how the stock was going to perform. Claimant further contended that in January, 1993, Respondent Frank Skelly of Respondent Stratton Oakmont, Inc. called him at his office whereby he identified himself as Respondent Joseph Teseo's supervisor, at which time, he basically told Claimant that Respondent Joseph Teseo was incompetent and had to be moved to another department. Claimant further asserted that Respondent Frank Skelly told Claimant he felt very bad about his investment and that he wanted to make it up to him by returning his account to profitability, at which time, Respondent Frank Skelly said he had a sure thing that was going to go up \$2.00 a share within three weeks whereby Claimant fell for it, sold all his PDK to purchase 1,000 warrants of Licon International at \$7.625 per warrant which settled on January 28, 1993 and subsequently on January 29, 1993, the warrants had dropped in value over \$2.00 a share. Claimant further alleged that Respondents systematically manipulated him to use his money to profit their own "in-house" stocks and never had Claimant's best interest in mind, thus Respondents should be liable for his losses.

Respondents Stratton Oakmont, Inc., Joseph Teseo and Frank Skelly, by and through their counsel Norman B. Arnoff, Esq. of Capuder & Arnoff, P.C., New York, New York, maintained that the complaint does not adequately set forth any specific rule violations of the NASD causative of the actual loss to the customer, nor does the complaint state the wrongs or the circumstances of the wrongs complained of so that the responsive pleader has adequate and meaningful notice of the claim and can interpose an answer against the allegations made against the Respondents. Respondents further maintained that an aggregate loss of \$14,000.00 is claimed but there is no specificity as to whether this is realized or unrealized or a result of what particular transactions. Respondents contended that the recommendations were reasonably based and suitable in light of Claimant's stated investment objectives. Respondents further contended that confirmations were timely sent and were not timely objected to, orally or in writing, by the Claimant and statements of the account were also duly sent to the Claimant and were not timely objected to orally or in writing. Respondents asserted that while it is categorically denied that there were any unauthorized, unsuitable, illegal or improper transactions, receipt by the Claimant of confirmations and account statements without written or other appropriate objection constitutes in law and in equity, ratifications of the transactions, thus the claim should be dismissed.

#### **RELIEF REQUESTED**

Claimant Martin H. Lamb requested the sum of \$7,625.00 in actual damages.

Respondents Stratton Oakmont, Inc., Joseph Teseo and Frank Skelly requested the claim be denied.

**AWARD**

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Robert H. Putnam, Jr., 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 August 5, 1993, and by the Respondents on September 13, 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. Respondent Stratton Oakmont, Inc. is liable and shall pay to the Claimant Martin H. Lamb the sum of \$8,080.38 in damages inclusive of interest at 7% per annum from January 28, 1993.

Upon receipt of said payment, Claimant Martin H. Lamb must transfer 1,000 Licon International Wts. to Respondent Stratton Oakmont, Inc.

2. The claim of Claimant Martin H. Lamb against Respondents Joseph Teseo and Frank Skelly is dismissed.
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 Martin H. Lamb shall be retained by the NASD, Inc. Respondent Stratton Oakmont, Inc. is liable and shall pay to the Claimant the sum of \$150.00, as reimbursement.

**AFFIRMATION**

I, **ROBERT H. PUTNAM, JR., 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.

  
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Signature of Arbitrator

DATE OF DECISION: December 22, 1993