

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Leon A. Martin

93-04432

Name of Respondent

Franklin-Lord Inc.

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on October 26, 1993, Claimant Leon A. Martin, who appeared Pro Se, alleged that Respondent firm, Franklin-Lord, Inc. placed an order for 1,000 shares of Wholesome and Hearty Foods, Inc. (WHFI) stock on June 18, 1993, in error, and that on June 17, 1993 Claimant purchased 1,000 shares of WHFI and contended that he requested to purchase an additional 2,400 shares on June 18, but the order for 1,000 shares was placed instead. Claimant further alleged that although the error was corrected on June 19, 1992, he is entitled to damages resulting from the higher price he was required to pay due to the Respondent's error.

Respondent firm, Franklin-Lord, Inc., through outside counsel, Thomas Fehn of the firm Fields, Fehn & Sherwin of Los Angeles, CA, maintained that Claimant attempted to misconstrue an error that occurred by claiming that his order for 2,400 shares was actually entered the day before it was given. Additionally, the Respondent maintained that the Claimant did not pay for either trade in a timely fashion. Respondent contended that the claim be dismissed in its entirety and that it be awarded costs and reasonable attorney's fees.

On December 31, 1993, the Claimant wrote a reply to the Respondent's answer offering further clarification. Claimant stated that contrary to the statements contained in Respondent's answer, he is not a "sophisticated investor" or an "opportunist" and that Respondent purchased the wrong amount of stock. Claimant further alleged in his reply that since they sent payment for the transaction by Federal Express Priority Overnight service on July 1, 1992, Franklin-Lord, Inc. should have received the checks the following day, not on July 6 as the Respondent maintained.

Respondent's, in their Supplement to Statement of Answer, contended that although the Claimant's reply adds new material, it did not valueate the original claim, and again requested that the Statement of Claim be dismissed in its entirety.

RELIEF REQUESTED

Claimant Leon A. Martin requested \$4,980.00 in actual damages.

Respondent Franklin-Lord, Inc. requested that the claim of the Claimant be dismissed in its entirety and that they be awarded costs and attorney's fees.

AWARD


Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Alan R. Markizon, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on October 22, 1994 and by the Respondent on February 3, 1994.

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 Leon A. Martin against Respondent Franklin-Lord, Inc. is dismissed in its entirety.
2. The parties shall bear their respective costs.
3. The \$125.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc.

AFFIRMATION

I, **ALAN R. MARKIZON**, 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: August 24, 1994