

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Irene Butler Lozano

93-05086

Name of Respondents

Matt C. Moniak

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on December 8, 1993, Claimant Irene Butler Lozano, who appeared Pro Se, alleged that Respondent Matt C. Moniak purchased for her account 1000 warrants of Cybernetics, Inc. and sold her shares of Spectrum Information Technologies, Inc. ("Spectrum") without her authorization, after Claimant expressly told Respondent not to make any trades in her account without her permission. Claimant further alleged that Respondent churned her account. As a result of the above, Claimant alleged that she has suffered damages for which the Respondent should be held liable.

Respondent Matt C. Moniak, through his counsel Paul J. Delmore, of Edwards, White & Sooy, San Diego, California, maintained that Claimant expressly authorized the sale of Spectrum stock and the purchase of Cybernetics, Inc. stock. Respondent further maintained that Claimant did not suffer any damages as a result of the transactions in question. Respondent denied that he ever churned Claimant's account. As a result of the above, Respondent contended that he should not be held liable in this matter.

RELIEF REQUESTED

Claimant Irene Butler Lozano requested \$4,000.00 in actual damages, and her account restored the way it was before any of the transactions in question took place.

Respondent Matt C. Moniak requested that the Claimant's Statement of Claim be dismissed in its entirety, and that he be awarded his costs and expenses.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single public arbitrator, Laurie J. Butler, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on January 10, 1994 and by the Respondent on April 7, 1994.

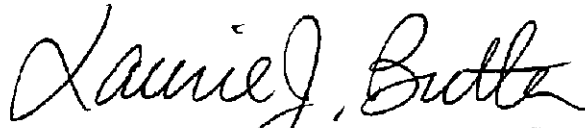
And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Respondent Matt C. Moniak is liable and shall pay to Claimant Irene Butler Lozano \$500.00 in actual damages.
2. Respondent Matt C. Moniak is liable and shall pay to Claimant Irene Butler Lozano simple interest at the rate of 10% per annum from October 14, 1993 to the date of payment of the award.
3. The parties shall bear their respective costs, including attorney's fees.
4. 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. Respondent Matt C. Moniak is liable and shall pay to Claimant Irene Butler Lozano \$125.00 as reimbursement of the filing fee.

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AFFIRMATION

I, **LAURIE J. BUTLER**, do hereby affirm upon my oath of arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.

A handwritten signature in cursive script, reading "Laurie J. Butler", written over a horizontal line.

Signature of Arbitrator

DATE OF DECISION: July 28, 1994