

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Michael Vuozzo

94-00085

Name of Respondents

Thomas James Associates, Inc.

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on January 6, 1994, Claimant Michael Vuozzo, who appeared Pro Se, alleged that a broker at Respondent Thomas James Associates, Inc. sold from his account his stock and warrants in Sparta Surgical, Inc. and his stock in Sayett Group, Inc. without his authorization. Claimant further alleged that his broker at Respondent purchased 255 shares of BPI Packaging Technologies, Inc. ("BPI, Inc.") stock for his account without his authorization. In his response to Respondent's answer, Claimant further alleged that Respondent's claim for expenses related to arbitrating this claim is completely without merit. As a result of the above, Claimant contended that he has suffered damages for which the Respondent should be held liable.

Respondent Thomas James Associates, Inc., through its in-house counsel Richard J. Milham, Jr., Esq., Rochester, New York, denied that its representative conducted any trading in Claimant's account without Claimant's express authorization. Respondent maintained that Claimant is attempting to recoup trading losses incurred as a result of his decision to purchase shares of BPI, Inc. Respondent further maintained that Claimant gave inconsistent answers when questioned by the branch manager about the discussions Claimant had with the broker at Respondent on the day the allegedly unauthorized transactions occurred. Respondent contended that Claimant gave the broker at Respondent until the end of 1993 to turn Claimant's account around by selling the existing positions in the

account and purchasing the BPI, Inc. shares. As a result of the above, Respondent contended that it should not be held liable in this matter.

RELIEF REQUESTED

Claimant Michael Vuozzo requested \$2,173.13 in actual damages.

Respondent Thomas James Associates, Inc. requested that the Claimant's claims be dismissed in their entirety, and that costs and attorney's fees be awarded to Respondent.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single public arbitrator, Philip Marshall, 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 December 31, 1993 and by the Respondent on March 18, 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 Thomas James Associates, Inc. is liable and shall pay to Claimant Thomas Vuozzo \$2,173.13 in actual damages.
2. Respondent Thomas James Associates, Inc. is awarded ownership of BPI Packaging Technologies, Inc. stock in Claimant's account. Claimant Thomas Vuozzo is directed to execute any papers necessary to transfer the stock.
3. Respondent Thomas James Associates, Inc. is liable and shall pay to Claimant Thomas Vuozzo simple interest at the rate of 4% per annum from January 1, 1994 until full payment of the award, provided this payment is made no later than 30 days after the date of the award. If payment has not been made by such time, simple interest will start accruing at 9% per annum until full payment of the award.
4. The parties shall bear their respective costs, including attorney's fees.

5. The \$30.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc. Respondent Thomas James Associates, Inc. is liable and shall pay to the Claimant Michael Vuozzo \$30.00 as reimbursement of the filing fee. Respondent Thomas James Associates, Inc. shall remit \$20.00 to the NASD, Inc. as payment of the remainder of the filing fee.

AFFIRMATION

I, **PHILLIP MARSHALL, ESQ.**, 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.


Signature of Arbitrator

DATE OF DECISION: August 23, 1994

STATE OF New York ss.:

COUNTY OF Erie

On this 14th day of August 1994, before me personally appeared to me known and known before me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

Margaret M. Doskocz

MARGARET M. DOSKOCE
Notary Public, State of New York
Qualified in Erie County
My Commission Expires December 8, 1994