

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Joseph Olivieri

94-01151

Name of Respondents

Michael C. Cardascia
Burnett Grey & Co., Inc.
Emmet A. Larkin Company, Inc.

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on March 28, 1994, Claimant Joseph Olivieri, who appeared Pro Se, alleged that Respondent Burnett Grey & Co., Inc., through its representative, Respondent Michael Cardascia, made misrepresentations to him with regard to Exten Industries, Inc. stock, and because of these misrepresentations, he was convinced to buy a total of 1,500 shares, and that although he was assured the stock would climb, it continually decreased in value. The Claimant contended that the Respondents failed to accept his requests to sell the stock, and when it was finally sold the stock had decreased to 90 cents per share. Claimant Joseph Olivieri contended that he has suffered damages due to the wrongdoing of the Respondents, and therefore they should be held liable in this matter.

Respondent Emmet A. Larkin Company, Inc., through its Executive VP, Melvin Peterson, maintained that it is only the clearing broker for Burnett Grey & Co., Inc., and that it did not participate in the investment decisions made by the Claimant, and further that it should not be a party in this matter.

Respondent Michael Cardascia, who appeared Pro Se, maintained that he followed the Claimant's instructions and that the Claimant's claim is unfounded. The Respondent also maintained that the Claimant stated in his claim that he wanted to sell the stock when it reached \$4.00, but in fact, his notes reflect the opposite, (that he wanted to buy more at that price), and further that the Claimant's losses were not caused by any wrongdoing on his part, and therefore the claims should be dismissed.

Respondent Burnett Grey & Co., Inc. failed to file an Answer to the Statement of Claim.

RELIEF REQUESTED

Claimant Joseph Olivieri requested \$7,454.37 in actual damages.

Respondent Michael Cardascia requested that the claims of the Claimant be dismissed.

Respondent Emmet A. Larkin Company, Inc. requested it be removed from this arbitration matter.

Respondent Burnett Grey & Co., Inc. 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 Respondent Burnett Grey & Co., Inc., was served a copy of the Statement of Claim by regular mail and given an opportunity to respond, which it failed to do.

Pursuant to the By-laws of the NASD, the Arbitrator determined that Respondent Burnett Grey & Co., Inc. had notice of the claim, and was required to submit to this arbitration proceeding; and is, therefore, bound by the arbitrator's ruling and determination.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Robert E. Tobin, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on March 20, 1994, by Respondent Michael Cardascia on July 19, 1994, and by Respondent Emmet A. Larkin Company, Inc. on June 27, 1994, but not signed by Respondent Burnett Grey & Co., Inc. as required by Sections 12 & 13 of the NASD Code of Arbitration Procedure.

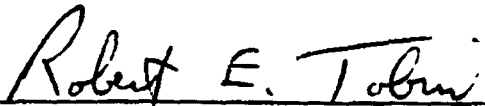
And, the Arbitrator, having considered the proof of the parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. The claims of the Claimant Joseph Olivieri against Respondent Michael Cardascia, Burnett Grey & Co., Inc. and Emmet A. Larkin Company, Inc. are dismissed in their entirety.

2. The parties shall bear their respective costs.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Joseph Olivieri shall be retained by the NASD, Inc. Respondent Burnett Grey & Co., Inc. is liable and shall pay \$37.50 to the Claimant as partial reimbursement of the filing fee. Respondent Michael Cardascia is also liable and shall pay \$37.50 to the Claimant as partial reimbursement of the filing fee.

AFFIRMATION

I, **ROBERT E. TOBIN**, 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

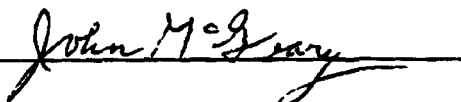
DATE OF DECISION: March 14, 1995

STATE OF: *N.Y.*

SS:

COUNTY OF: *NASSAU*

On this 1ST day of MARCH 1995, before me personally appeared **ROBERT E. TOBIN** 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.



JOHN McGEARY
NOTARY PUBLIC, State of New York
No. 81 MC 463288
Qualified in Nassau County
Commission Expires June 30 1996