

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Irina and David Kreditor

94-01404

Name of Respondents

Spencer-Winston Securities Corporation
Jason Weisz

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on April 13, 1994, Claimants David and Irina Kreditor, who appeared Pro Se, alleged that Respondent Spencer-Winston Securities Corp. through its registered representative, Respondent Jason Weisz, failed to follow their instructions to immediately sell 300 shares of Burlington Coat Factory Warehouse Corp. stock and to cancel the previous open sell order for these shares. The Claimants contended that Respondent Weisz then sold 300 shares of this stock that no longer existed in their account, and attempted to fraudulently convince them to buy 300 shares. The Claimants also contended that when they terminated their account and transferred to another brokerage firm, the Respondents erroneously transferred 500 shares of Conquest Airlines Corp. which they never possessed and never existed in their account. Claimants Irina and David Kreditor further contended that the Respondents were negligent in handling their account, and therefore, they should be held liable for Claimants' losses.

Respondents Spencer-Winston Securities Corp. and Jason Weisz, through Jason Weisz as representative, maintained that Claimants placed a sell order for the BCF shares, but failed to mention that the previous open order was to be cancelled and therefore the second sale of 300 shares took place, which created a short position in the Claimants' account. The Respondent further maintained that several attempts were made to reach the Claimant by telephone without success, and further that it was the new brokerage firm that erred in journaling shares of Conquest Airlines into their new account, and therefore, no wrongdoing was done on their part and the claims of the Claimants' should be dismissed.

RELIEF REQUESTED

Claimants David and Irina Kreditor requested \$1,136.24 in actual damages.

Respondents Spencer-Winston Securities Corp. and Jason Weisz requested that the claims of the Claimant be dismissed.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Marc Ripp, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on April 5, 1994, by Respondent Jason Weisz on July 5, 1994 and by Respondent Spencer-Winston Securities Corp. on July 11, 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 Claimants David and Irina Kreditor against Respondents Spencer-Winston Securities Corp. and Jason Weisz are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. The \$50.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant David and Irina Kreditor shall be retained by the NASD, Inc.

Affirmation

STATE OF NEW YORK

} SS:

COUNTY OF NEW YORK

I, Marion L. Ripp, Esq., do hereby affirm upon my oath
as arbitrator that I am the individual described in and who executed this instrument,
which is my oath and award.

Marion L. Ripp, Esq.
Signature of Arbitrator

DATE OF DECISION: March 30, 1995

Andrew Russell

ANDREW RUSSELL
Notary Public, State of New York
No. 02RUC34752
Qualified in New York County
Commission Expires Oct. 17, 1996