

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Toolcraft Supply, Inc.

94-01647

Name of Respondents

James W. Bullard
John Puglisi
Cantella & Company
Securities Planners, Inc.
J.W. Bullard & Co.

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on May 3, 1994, Claimant Toolcraft Supply, Inc. ("Claimant"), through its representative and President, Jerome Harshman ("Harshman"), who appeared Pro Se, alleged that Respondents James W. Bullard ("Bullard"), Cantella & Company ("Cantella"), Securities Planners, Inc. ("SPI"), John Puglisi and J.W. Bullard and Company ("JWB") made unauthorized trades in its account. Claimant further alleged that, JWB's broker, John Puglisi ("Puglisi"), made an unauthorized sale of Orion Pictures and an unauthorized buy of EuroAmerican Group, Inc. on February 28, 1994. Claimant contended that when it learned of these unauthorized trades from Cantella on March 7, 1994, Harshman called Puglisi, who quoted the price of EuroAmerican Group stock at \$5.00. Claimant further contended that Harshman directed Puglisi to sell the shares immediately and that Puglisi said to consider it done. Claimant alleged that when it received no confirmation of the sale, Harshman made several follow-up calls to Puglisi, which were unreturned, and later learned from Cantella that the trade was not done. Claimant further alleged that when Harshman finally spoke to Puglisi on March 28, 1994, Puglisi told him the stock was at \$5-3/8 and that he would fax the confirmation that day. Claimant contended that, on April 11, 1994, it received a statement from Cantella showing 1800 shares of EuroAmerican Group in its account at \$1.00 per share. Claimant alleged that as a result of the above, he suffered a loss for which the Respondents should be held liable.

Respondent, SPI, through its representative and in-house counsel, M. David Sayid, Esq., maintained that all of the transactions at issue were transacted in the firm of J. W. Bullard and not SPI. Respondent SPI further maintained that Bullard accepted a position at SPI on April 25, 1994, and that Bullard transferred his accounts to SPI because the two investment banking houses cleared through the same clearing firm of Cantella. Respondent contended that pursuant to an agreement, Bullard was not to incur any debts, lawsuits or arbitration in connection with the transfer of the account from JWB to SPI. Respondent SPI further contended that Claimants allegations should be directed to Bullard and not SPI and that as a result of the above, it should not be held liable.

Respondent J. W. Bullard & Co., failed to file an Answer to the Statement of Claim.

Respondent James W. Bullard, failed to file an Answer to the Statement of Claim.

Respondent Cantella & Co., failed to file an Answer to the Statement of Claim.

Respondent John Puglisi, failed to file an Answer to the Statement of Claim.

RELIEF REQUESTED

Claimant Toolcraft Supply, Inc., requested \$6,625.00 in actual damages or restoration of the 1000 shares of Orion Pictures sold.

Respondent Securities Planners, Inc., requested that the claims of the Claimant be dismissed.

Respondent J. W. Bullard & Co., failed to file an Answer to the Statement of Claim.

Respondent James W. Bullard, failed to file an Answer to the Statement of Claim.

Respondent Cantella & Co., failed to file an Answer to the Statement of Claim.

Respondent John Puglisi, failed to file an Answer to the Statement of Claim.

OTHER ISSUES CONSIDERED AND DECIDED

In accordance with Section 13 of the NASD Code of Arbitration Procedure, the Respondents, James W. Bullard, Cantella & Company, and J. W. Bullard and Company, were each served by regular mail and given an opportunity to respond, which all failed to do. In addition, an overdue answer notice was sent to each of the above Respondent by certified mailed and was received as evidenced by the return signature card on file at the NASD.

Pursuant to the By-laws of the NASD, the Arbitrator determined that Respondents, James W. Bullard, Cantella & Company, and J. W. Bullard and Company, each has notice of the claim, and was required to submit to this arbitration proceeding; and is therefore, bound by the arbitrator's ruling and determination.

Although reasonable attempts were made, Respondent John Puglisi, was not served with the Statement of Claim.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Jonathan P. Tomes, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant, Toolcraft Supply, Inc. on June 8, 1994, and not by Respondents Securities Planners, Inc., James W. Bullard, Cantella & Company, and J. W. Bullard and Company, as required by Sections 12 and 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, Toolcraft Supply, Inc., against Respondents Securities Planners, Inc., Cantella & Co. and James W. Bullard, are dismissed in their entirety.
2. The claims of the Claimant, Toolcraft Supply, Inc., against Respondent John Puglisi, are dismissed without prejudice.
3. The Respondent J. W. Bullard & Co. is liable and shall pay to the Claimant Toolcraft Supply, Inc., \$8,142.00 in actual damages.
4. The \$ 150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Toolcraft Supply, Inc., shall be retained by the NASD, Inc. The Respondent J. W. Bullard & Co. is liable and shall pay to the Claimant Toolcraft Supply, Inc., \$150.00 as reimbursement of the filing fee.
5. All other relief requests are denied.

AFFIRMATION

I, JONATHAN P. TOMES, ESQ., 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.



Jonathan P. Tomes, Esq.

DATE OF DECISION: December 12, 1995