

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Frederick M. Ganz

94-01845

Name of Respondent

La Jolla Capital Corporation

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on May 17, 1994, Claimant Frederick Ganz, who appeared Pro Se, alleged that Respondent La Jolla Capital Corporation initiated a sale of Telefonos de Argentina stock to Claimant through a "cold call" on November 8, 1993. Claimant further alleged that on December 14, 1993 Respondent pressed him to sell this stock and purchase shares of Jutland Enterprises under the statement that the Jutland stock would rapidly increase in value from \$12.00 a share to \$70.00 a share. Claimant contended that after purchasing 200 shares of Jutland Enterprises the stock price fell to approximately \$1.00 a share. Claimant further contended that Respondent employed "bait and switch" tactics to force him to switch investments, did not provide investment specifics as requested by Claimant and did not notify Claimant of stock price actions as would a responsible brokers-dealer. Claimant alleged that through irregularities in the handling of the account, Respondent made it impossible for the Claimant to sell the stock in a timely fashion which would have prevented the subsequent loss. As a result of the above, Claimant contended that he has suffered damages for which the Respondent should be held liable.

Respondent La Jolla Capital Corporation, through its representative, James C. Weaver, Esq., San Diego, CA, maintained that Claimant is an experienced investor in OTC stocks with the financial capability to handle the risk involved. Respondent further maintained that it did not represent to Claimant that the stock would appreciate substantially in a short period of time. Respondent denied that it represented to Claimant that there was no risk of a decline in price. As a result of the above, Respondent contended that it should not be held liable in this matter.

RELIEF REQUESTED

Claimant Frederick Ganz requested \$2,400.00 in actual damages.

Respondent La Jolla Capital Corporation 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, David Fogel, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on May 12, 1994 and by the Respondent on August 8, 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 Claimant Frederick Ganz against Respondent La Jolla Capital Corporation 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 shall be retained by the NASD, Inc.

AFFIRMATION

I, DAVID FOGEL, 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.

David Fogel

Signature of Arbitrator

DATE OF DECISION: December 22, 1994

STATE OF:

ss:

COUNTY OF:

On this 19th day of December 19 94, before me personally appeared DAVID FOGEL, ESQ. 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.

COUNTY OF BERGEN
STATE OF NEW JERSEY
DIANE S. FOGEL
NOTARY PUBLIC
MY COMMISSION EXPIRES SEPT. 8, 1998
I.D. NO. 2169521

Diane S. Fogel