

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

Ralph E. Johnson, and
Ramona L. Johnson,
Claimants,

v.

No. 94-01983

Mario Iacoviello, and
Bruce Biddick,
Respondents.

REPRESENTATION OF PARTIES

Claimants Ralph E. Johnson, and Ramona L. Johnson ("Claimants") appeared on their own behalf.

Respondents Mario Iacoviello, and Bruce Biddick appeared on their own behalf.

CASE INFORMATION

Claimant's Statement of Claim was filed on or about May 26, 1994. Claimant's Submission Agreement was signed on April 29, 1994. Claimants' Reply to Iacoviello's Answer was filed on or about October 20, 1994.

Iacoviello's Answer was filed on or about August 16, 1994. Iacoviello's Submission Agreement was signed on August 18, 1994.

Biddick's Answer was filed on or about August 17, 1994. Biddick's Submission Agreement was signed on September 12, 1994.

HEARING INFORMATION

Hearing date: March 8, 1994. One (1) session.

Hearing Location: Scottsdale, Arizona.

CASE SUMMARY

Claimants stated that they had an account with La Jolla Securities, Inc. in Scottsdale, Arizona. Claimants also stated that James Cordero had been their account executive until that office was closed in late December 1993. Claimants further alleged that up until that time, they had 1,153 shares of Contour Medical, Inc. stock ("CMI") and 2,000 shares of Macland, Inc. stock ("MI") in

their account. Claimants alleged that on January 4, 1994, Iacoviello called and introduced himself as the Claimants' new account executive. Claimants further alleged that they did not authorize any sales or purchases of stock for their account during that conversation. Claimants also alleged that they received trade slips for the sale unauthorized sale of the CMI and MI shares, and the unauthorized purchase of Comparator Systems Corp. stock ("CCS"). Claimants stated that they transferred their account to James Cordero's new firm, and that on the advice of James Cordero, they sold the CCS to repurchase the 2,000 MI shares back. Claimants further stated that the repurchase cost the Claimants an additional \$45.00 over and above the amount of proceeds of the CCS sale.

For his Answer, Iacoviello denied the allegations in Claimants' claim. Iacoviello asserted that on January 4, 1994, he contacted Claimants to introduce himself, and to recommend the purchase of CCS and the sale of CMI and MI. Iacoviello further asserted that he told Claimants that the trades would be done without any commissions, and that Claimants had approved. Iacoviello further asserted that the trade slips were immediately generated and sent to Claimants showing the purchases and sales of CCS, CMI and MI for Claimants' account. Iacoviello next asserted that Claimants did not complain of the trades until the week of January 24, 1994, when MI moved up in price. Lastly, Iacoviello asserted that he had no motive to make unauthorized transactions in Claimants' account because he had not charged any commissions for the CCS, CMI, and MI transactions.

For his Answer, Biddick denied the allegations in Claimants' claim. Biddick asserted that the trades had been done under Claimants' supervision and approval.

RELIEF REQUESTED

Claimants requested that an award be entered against the Respondents for cash to purchase 1,153 shares of Contour Medica, Inc., the market price as of July 1, 1994, was \$3,459.00. Claimants also requested that the Respondents also pay the \$45.00 that it cost the Claimants to restore the Macland, Inc. stock to their account.

Iacoviello requested that the Claimants' claims be dismissed.

Biddick requested that the Claimants' claims be dismissed.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that the Award in this matter may be executed by counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the Award while the original(s) remain on file with the NASD.

AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. The Claimants failed to prove any loss attributable to any fault of either of the Respondents and the claim is therefore denied in full.
2. The forum fees and other costs of the arbitration shall be borne by the parties as they have been assessed by the NASD and paid to date.
3. The hearing is now closed.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure (the "Code"), the following forum fees are assessed:

1 hearing session @ \$100.00 per session = \$100.00

Pursuant to Section 43(c) of the Code, the NASD shall **retain** the nonrefundable filing fee in the amount of \$50.00, and shall **retain** the hearing session deposit in the amount of \$100.00 previously paid to the NASD by the Claimant.

Pursuant to Section 45 of the Code, Biddick, as President of La Jolla Securities, Inc., is assessed a \$100.00 surcharge.

Fees are payable to the National Association of Securities Dealers, Inc.

CONCURRING ARBITRATORS

Dated:

Name:

March 21, 1995

I. Douglas Dunipace /s/
I. Douglas Dunipace
Presiding Chair
Public Arbitrator

3-24-95