

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Robert E. Burke

94-02174

Name of Respondent(s)

Lew Lieberbaum & Co.
Christopher McMurray
Sheldon Lieberbaum

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on June 9, 1994, Claimant Robert E. Burke, Who appeared Pro Se, alleged that Respondents Lew Lieberbaum & Co., Inc. ("LLC"), Christopher McMurray ("McMurray"), and Sheldon Lieberbaum ("Lieberbaum") did not properly handle his account. Claimant further alleged that on March 5, 1994, he sent a letter to McMurray, an Account Executive with LLC, asking that his account be closed and the proceeds remitted to him. Claimant contended that on March 9, 1994, he received a phone call from McMurray, who talked him into purchasing Care Concept ("CARE") at \$1.313 but on March 12, 1994, he received the confirmation and the price was \$1.700. Claimant further contended that he told McMurray to cancel the order and to remit the cash, and on March 16, 1994, he received a confirmation which cancelled the buy order. Claimant alleged that on March 29, 1994, he sent a letter requesting that his account be closed and the funds remitted. Claimant further alleged that on April 1, 1994, he received his month end statement which now showed him buying CARE at \$1.6375 and on April 15, 1994, he received the stock certificate for 3,200 shares of CARE which he sent back to McMurray by registered mail. Claimant Contended that Respondents have caused him a loss for which they should be held liable.

Respondent Lew Lieberbaum & Co., Inc., Christopher McMurray and Sheldon Lieberbaum, through their representative, Stuart N. Kingoff, Esq., in-house counsel for Lew Lieberbaum & Co., Inc., maintained that Claimant is a sophisticated and experienced investor who seeks to recover for a purported "paper Loss" allegedly incurred on a fully authorized single investment

and Claimant has failed to allege even a single fact that could result in any liability on the part of Respondents. Respondents further maintained that Claimant authorized and fully paid for each and every transaction executed in his account including the purchase of CARE. Respondents contended that all risks concerning Claimant's investments were properly disclosed and he voluntarily decided to assume these risks. Respondents further contended that they have conducted themselves in compliance with all laws, rules, regulations and policies relevant to the handling to Claimant's account and should not be held liable for his loss.

RELIEF REQUESTED

Claimant Robert E. Burke requested \$5,430.75 in actual damages plus interest.

Respondents Lew Lieberbaum & Co., Inc. Christopher McMurray and Sheldon Lieberbaum 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, James M. Baumann, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on June 6, 1994, and by the Respondents Lew Lieberbaum & Co., Inc. and Christopher McMurray on January 3, 1995, but not signed by Respondent Sheldon Lieberbaum as required by Sections 12 and 13 of the NASD Code of Arbitration Procedure.

1. Respondents Lew Lieberbaum & Co., Inc., Christopher McMurray and Sheldon Lieberman are jointly and severally liable and shall pay to the Claimant Robert E. Burke \$1,783.00 in actual damages.
2. The Claimant's request for interest is denied.
3. The parties shall bear their respective costs.
4. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Robert E. Burke, shall be retained by the NASD, Inc.

Affirmation

STATE OF

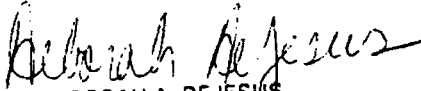
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COUNTY OF

I, JAMES M. BARNAN, 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.



Signature of Arbitrator


DEBOPAH A. DEJESUS
Notary Public, State of New York
No. 02CE5022979
Qualified in New York County 96
Commission Expires January 24, 1996

DATE OF DECISION: May 18, 1995