

NASD AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Name of Claimant

David Zapiler, individually and as Custodian for Sarah Zapiler

and

94-02246

Name of Respondent

Walford & Co.

REPRESENTATION OF PARTIES

David Zapiler, individually and as Custodian for Sarah Zapiler ("**Claimant**") was represented by Marc H. Shtul, Esq., Isaacson, Rosenbaum, Woods, & Levy, P.C., Denver, Colorado.

Walford & Co. ("**Respondent Walford**") did not appear at the hearing.

CASE INFORMATION

The Statement of Claim was filed on or about June 15, 1994. Submission Agreement of Claimant David Zapiler, individually and as Custodian for Sarah Zapiler was signed on June 1, 1994.

Respondent Walford & Co. did not file a responsive pleading in this matter.

HEARING INFORMATION

The hearing was held on Tuesday, April 4, 1995 in Denver, Colorado for one (1) session.

CASE SUMMARY

Claimant alleged that Robert Malone contacted him to recommend that he purchase common stock in the initial public offering for U.S. Wireless Data, Inc. It was alleged that at during the time of this contact, the Claimant made an initial indication of interest for both his own account and the account of his grandduaghter. Claimant alleged a few weeks later on Decvember 10, 1993, he recieved confirmations showing that he had purchased shares of U.S. Wireless for both accounts in addition to the prospectus for the initial public offering. The confirmations showed a trade date seven days prior to the date that he head recieved them. Claimant alleged that on December 14, 1993 he advised

Respondent Walford & Co. in writing that he had not authorized the purchase of U.S. Wireless Data, Inc. and instructing Respondent to void the transaction.

Respondent Walford & Co. did not file a responsive pleading.

RELIEF REQUESTED

Claimant requested an award in the amount of \$23,783 on behalf of David Zapiler, individually and in the amount of \$4,250 on behalf of David Zapiler as Custodian for Sarah Zapiler, interest, reasonable attorneys' fees, costs, expenses and such other relief deemed just and proper.

OTHER ISSUES CONSIDERED & DECIDED

Upon review of the file and the representations made by/on behalf of the Claimant, the undersigned arbitrators have determined that Respondent Walford & Co. has been properly served with the Statement of Claim pursuant to §13 and §25 of the NASD Code of Arbitration Procedure (the "Code"). The undersigned arbitrators have also determined that Respondent Walford & Co. had received due notice of the hearing as required under §26 of the Code and that arbitration of the matter would proceed pursuant to §29 of the Code.

Robert Malone was named as a Respondent in this matter but was dismissed from this matter by Claimant having settled the claims asserted against him.

The parties have agreed that a handwritten, signed Award may be entered. The parties have agreed to receive conformed copies of the award while the original remains on file with the NASD.

AWARD

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

1. Respondent Walford & Co. shall be and hereby is liable for and shall pay to Claimant David Zapiler in his individual capacity the sum of **Twenty three thousand five hundred twenty dollars (\$23,520)**.
2. Respondent Walford & Co. shall be and hereby is liable for and shall pay to the Claimant David Zapiler as Custodian for Sarah Zapiler the sum of **Four thousand two hundred two dollars (\$4,202)**.
3. Interest at the rate of 8% per annum is awarded on the above stated sums from and inclusive of April 4, 1995 to and inclusive of the date this award is paid in full.

4. No punitive damages are awarded herein.
5. Respondent Walford & Co. shall be and hereby is liable for and shall pay to the Claimant David Zapiler the sum of \$400 as reimbursement of the hearing session deposit previously paid to the NASD.
6. Each party shall bear its own costs, expenses and attorneys' fees incurred in this matter not specifically enumerated herein.

FORUM FEES

Forum fees are calculated at the rate of \$400 per hearing session and \$300 for each prehearing conference, if any. There was one (1) session x \$400 = \$400 in forum fees. Pursuant to §43(b) a hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with an arbitrator, which lasts four (4) hours or less.

Pursuant to §43(c) of the NASD Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. ("NASD") shall **retain** the non-refundable filing fee in the amount of \$100 and shall **retain** as forum fees the hearing session deposit in the amount of \$400 previously deposited with the NASD by the Claimant David Zapiler, individually and as Custodian for Sarah Zapiler. Pursuant to §45 of the NASD Code of Arbitration Procedure, Respondent Walford & Co. is assessed a surcharge in the amount of \$200. **Fees are payable to the National Association of Securities Dealers, Inc.**

Dated:

/s/ Kathryn P. Beller
Kathryn P. Beller, Esq.
Public Arbitrator, Presiding Chair

April 28, 1995

/s/ Thaddeus J. Tecza, PhD.
Thaddeus J. Tecza, PhD.
Public Arbitrator

April 20, 1995

/s/ Rozanne L. Nelson
Rozanne L. Nelson
Industry Arbitrator

April 20, 1995