

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Robert P. Sauer, III

94-02853

Name of Respondents

Comprehensive Capital Corp.
Tim Ciraulo

REPRESENTATION

For Claimant, Robert P. Sauer, III ("Sauer"):
Howard A. Tescher, Esq. of Kipnis, Tescher, Lippman, Valinsky & Kain
in Fort Lauderdale, FL.

For Respondents, Comprehensive Capital Corp. ("CCC") and Tim Ciraulo
("Ciraulo"):
Howard N. Kahn, Esq. of Kramer, Green, Zuckerman & Kahn, P.A. in
Hollywood, FL.

CASE INFORMATION

Statement of Claim filed: July 19, 1994.
Claimant's Submission Agreement signed: July 7, 1994.
Respondents', CCC and Ciraulo, Joint Statement of Answer filed: September 29,
1994.
Respondent CCC's Submission Agreement signed: September 29, 1994. The
agreement was signed by Olga Scoppa, President on behalf of CCC.
Respondent Ciraulo's Submission Agreement signed: September 28, 1994.

HEARING INFORMATION

On October 23, 1995, in Ft. Lauderdale, Florida, hearings lasting two (2)
sessions were conducted.

CASE SUMMARY

Claimant alleged that from May 27, 1992 through September 14, 1992, the Respondents caused 5 checks totaling \$10,000.00 to be issued on margin against Claimant's holding in Abbott Labs common stock; that each of the checks that were issued were requested by the Claimant's father who had no authority, written or otherwise, to authorize the withdrawal of the funds.

Respondents, denied all allegations of wrongdoing and alleged that Claimant provided his father with apparent authority to act on his behalf; that the father's forgery of the Claimant's signature is a complete defense to this action; that Claimant should proceed against his father or bank but declined to do so; that claimant received monthly statements without even objecting to the statements during the time the transactions allegedly took place; that all checks were sent to Claimant's residence and in the name of the Claimant; that if any liability exists, such liability would be diminished by liability of father and bank; and, that no acts were intentionally performed at anytime whatsoever by Respondents against Claimant.

RELIEF REQUESTED

Claimant requested \$10,067.50, together with pre-judgment interest, the loss in value of the Abbott Labs stock used to cover the margin call, and the NASD filing fees advanced by the Claimant, for a total of \$28,683.50.

Respondents requested that claims against them be dismissed in its entirety and the Respondents be awarded costs.

OTHER ISSUES CONSIDERED AND DECIDED

(1) Respondents, CCC and Ciraulo filed a third party claim against NationsBank and alleged that in the event an award is rendered against them, then the amount of such award should be assessed against NationsBank and not the Third Party Claimants.

- NationsBank was not a party to the arbitration agreement between the Claimant and the Respondents and is not a member of the NASD. Therefore, NationsBank was not obligated to submit to arbitration and declined to submit to the arbitrators' jurisdiction. Therefore, they are not a party to this arbitration.

(2) Claimant's Motion for a Directed Award was denied.

(3) Respondent's Motion for Dismissal was denied.

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

AWARD

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

- (1) Respondent, CCC, is found not liable and, therefore, all claims against it are hereby dismissed.
- (2) Respondent, Ciraulo, is found liable and shall pay to the Claimant the amount of \$2,000.00 plus interest at the rate of 12% per annum from 6/1/92 to 12/31/94 equalling \$620.00, plus interest at the rate of 8% per annum from 1/1/95 through 10/31/95 equalling \$130.00 for a total interest in the amount of \$750.00 for a total due to the Claimant of \$2,750.00.
- (3) Respondent, Ciraulo, is also found liable to Claimant for costs in the amount of \$27.00.
- (4) Respondents' requests for costs and expenses are denied.

OTHER COSTS

Other than as provided below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including attorney's fees.

FORUM FEES

- (1) Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount of \$800.00 (two (2) sessions x \$400.00).
- (2) Claimant is hereby assessed \$400.00, for which the NASD shall retain the \$300.00 previously deposited in partial satisfaction thereof, leaving a balance due to the NASD of \$100.00, payable to the National Association of Securities Dealers, Inc.
- (3) Respondents, CCC and Ciraulo, are hereby assessed \$400.00, jointly and severally, for which the NASD shall retain \$400.00 of the \$600 previously deposited third party claim session deposit in full satisfaction thereof, leaving a balance due to Respondent CCC of \$200.00.
- (4) The NASD shall retain the non-refundable filing fee of \$100.00 paid by the Claimant.

(5) The NASD shall retain the non-refundable filing fee of \$500.00 paid by Respondents/Third Party Claimants.

(6) The NASD shall retain the Section 45 surcharge of \$200.00 paid by Respondent CCC.

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

Arbitrators' Signatures

/s/

Stan West

Public/Chairperson

/s/

Richard D. Longacre

Industry

/s/

Frederick P Hartman, CPA

Public

Date of Decision: November 17, 1995