

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Roland Stanley

94-05217

Name of Respondent

Jay A. Gilston

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on December 12, 1994, Claimant Roland Stanley, who appeared Pro Se, alleged that Respondent Jay A. Gilston misrepresented an investment which resulted in a loss. Claimant further alleged that on June 15, 1994, he purchased 1,000 common shares and 1,000 warrants of Childrobics, Inc. from Respondent, a representative of Duke & Company, Inc. Claimant contended that he directed Respondent to sell the shares at the "first down-tick". Claimant further contended that Respondent stated that the downside of the stock was "slim and none and slim does not exist". Claimant alleged that his 1,000 Childrobics, Inc. warrants were sold by Respondent on August 12, 1994, and he was not made aware of the sale until September, 1994. Claimant further alleged that he still owns 1,000 common shares of Childrobics, Inc. which have declined in value. As a result of the above, Claimant alleged that he has suffered a loss for which the Respondent should be held liable.

Respondent Jay Gilston, through his representative, Charles M. O'Rourke, Esq., of Hempstead, NY, maintained that upon opening his account with Duke & Company, Inc., Claimant affirmed that his investment objectives were "growth" and "speculation". Respondent further maintained that Claimant purchased the subject securities in accordance with his stated investment objectives. Respondent contended that Claimant received a prospectus setting forth the business and risks of Childrobics, Inc. and acknowledged reading it. Respondent further contended that Claimant's purchase was made in June, and Claimant did not complain until September, after the stock had gone down. As a result of the above, Respondent maintained that he should not be held liable.

RELIEF REQUESTED

Claimant Roland Stanley, requested \$9,267.00 in actual damages.

Respondent Jay A. Gilston, 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, Ann C. Northern, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant Roland Stanley, on November 23, 1994, and by the Respondent Jay A. Gilston, on February 14, 1995.

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 the Claimant, Roland Stanley, against the Respondent, Jay Gilston, are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Roland Stanley, shall be retained by the NASD, Inc.

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AFFIRMATION

STATE OF **NEW YORK**

COUNTY OF **Kings**

I, **ANN C. Northern**, do hereby affirm, pursuant to Article 7507 of the Civil Procedure Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.


Signature of Arbitrator

DATE OF DECISION: **January 4, 1996**