

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Frank V. Cinquemani

95-00292

Name of Respondents

John L. Lembo, III
Hanover Sterling & Co., Ltd.

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on January 19, 1995 Claimant Frank V. Cinquemani, who appeared Pro Se, alleged that Respondents Hanover Sterling & Co., Ltd. ("Hanover") and John L. Lembo, III ("Lembo"), purchased and sold stock in his account without authorization. Claimant further alleged that he opened an account with Respondent Hanover and purchased of 1,000 shares of Physician Computer Network, Inc. ("PCN") on June 3, 1994. Claimant contended that on June 28, 1994, Respondents purchased 3,000 shares of Eagle Vision, Inc. ("EVI") for his account without authorization and that on July 15, 1994 these shares were sold, again without authorization. Claimant further contended that on July 15, 1994 1,000 share of PCN were sold without authorization from his account in order to cover the loss from the unauthorized trades of EVI. As a result of the above, Claimant alleged that he has suffered a loss for which, Respondents should be liable.

Respondent John L. Lembo, III, through his representative, Darren Lampert, Esq., of New York, NY, maintained that the purchase of 3,000 shares of EVI was authorized and when Claimant refused to pay for the transaction, the EVI shares were sold out, creating an unsecured debit in the account. Respondent Lembo further maintained that in order to pay for the unsecured debit, Rauscher Pierce, Hanover's clearing house, sold Claimant's 1,000 shares of PCN. Respondent Lembo contended that he properly discharged his duties and obligations and in all respects acted in accordance with applicable laws as well as accepted industry standards. As a result of the above, Respondent Lembo contended that he should not be held liable.

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Respondent Hanover Sterling & Co. Ltd., failed to file an answer to the Statement of Claim.

OTHER ISSUES CONSIDERED AND DECIDED

In accordance with Section 10 of the NASD Code of Arbitration Procedure the Respondent Hanover Sterling & Co. Ltd., was served by regular mail and given an opportunity to respond which it failed to do. Service of notification of the arbitration's identity was sent certified mail but was returned unsigned as refused and is on file with the NASD, Inc.

Pursuant to the By-Laws of the NASD the arbitrator determined that Respondent Hanover Sterling & Co. Inc., had notice of the claim and was required to submit to this arbitration proceeding and is, therefore, bound by the arbitrator's ruling and determination.

The arbitrator, after having considered the documents submitted by the parties concerning Respondent John L. Lembo, III's, Motion to File an Answer granted the Motion.

RELIEF REQUESTED

Claimant Frank V. Cinquemani, requested \$4,270.00 in actual damages.

Respondent John L. Lembo, III, requested that the claims of the Claimant be dismissed.

Respondent Hanover Sterling & Co., Ltd., did not file an Answer to the Statement of Claim.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, William Friedman, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on January 17, 1995 and by the Respondent John L. Lembo, III, on July 24, 1995. Respondent Hanover Sterling & Co., Ltd. did not submit a submission agreement as required by Sections 8 and 10 of the NASD Code of Arbitration Procedure.

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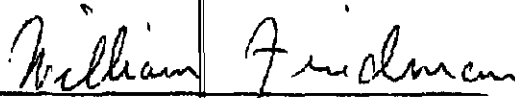
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And, the Arbitrator, having considered the proof of the parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Respondents John L. Lembo, III and Hanover Sterling & Co., Ltd. are jointly and severally liable and shall pay to the Claimant Frank V. Cinquemani, \$4,270.00 in actual damages.
2. The parties shall bear their respective costs.
3. All other relief request are denied.
4. The \$125.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Frank V. Cinquemani, shall be retained by the NASD, Inc. Respondents John L. Lembo, III and Hanover Sterling & Co., Ltd. are jointly and severally liable and shall pay to the Claimant \$125.00 as reimbursement of the filing fee.

AFFIRMATION

I, WILLIAM FRIEDMAN, ESQ., do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.



William Friedman, Esq.

Date of Decision: August 24, 1995