

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Brian P. and Wanda D. Poimboeuf

95-00327

Name of Respondent(s)

D. Blech & Company, Inc.
David Blech

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on January 23, 1995, Claimants Brian P. and Wanda D. Poimboeuf, who appeared Pro Se, alleged that Respondents David Blech and D. Blech & Co., Inc. solicited them to purchase stock in LXR Biotechnology and Procept Inc., and explained to them these investments would increase in value. The Claimants contended that when the stocks dropped in value instead, they asked the Respondents to sell the stock and to send a check for the difference directly to them, but Respondents did not follow their instructions and instead bought shares of Texas Biotech without authorization. The Claimants further alleged that they made many attempts to call and correct the problem, but discovered the Respondents were no longer in business. The Claimants contended that due to the wrongdoing of the Respondents, they have suffered damages for which they should be compensated.

Respondent D. Blech & Company Inc. failed to file an answer to the Statement of Claim.

Respondent David Blech did not file an answer to the Statement of Claim.

RELIEF REQUESTED

Claimants Brian P. and Wanda D. Poimboeuf requested \$8,500.00 in actual damages, or in the alternative, \$7,378.00 in actual damages for the unauthorized purchase.

Respondents D. Blech & Company, Inc. and David Blech failed to file answers to the Statement of Claim.

OTHER ISSUES CONSIDERED AND DECIDED

Although reasonable attempts at service were made upon Respondent David Blech, there is no proof of service upon this Respondent. In addition, the Arbitrator determined that Claimants failed to make a prima facie case against this Respondent.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, John F. Whitney, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on January 12, 1995 but not by the Respondents as required by Sections 12 and 13 of the NASD Code of Arbitration Procedure.

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. Respondent D. Blech & Company Inc. is liable and shall pay to Claimants Brian P. and Wanda D. Poimboeuf \$7,378.00 in actual damages.
2. The Claims of the Claimants Brian and Wanda Poimboeuf against Respondent David Blech are dismissed in their entirety.
3. Respondent D. Blech & Company Inc. is liable and shall pay to the Claimants Brian P. and Wanda D. Poimboeuf simple interest at the rate of 12% from May 31, 1994 to the date of payment of the Award.
4. The parties shall bear their respective costs.
5. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc.

AFFIRMATION

STATE OF LOUISIANA

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SS:

PARISH
~~COUNTY~~ OF ORLEANS

I, JOHN F. WHITNEY, 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.


Signature of Arbitrator

SWORN TO AND SUBSCRIBED
BEFORE ME THIS 4th DAY
OF DECEMBER, 1995.


NOTARY PUBLIC

DATE OF DECISION: January 17, 1996