

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

William R. Holmes

95-00693

Name of Respondents

Edward Sparacio  
Stratton Oakmont, Inc.

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CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on February 10, 1995, Claimant, William R. Holmes, who appeared Pro Se, alleged that Respondents, Stratton Oakmont, Inc. and Edward Sparacio, purchased and sold securities in his account without authorization. Claimant further alleged that on October 22, 1993, he purchased 1,000 shares of Computer Marketplace, Inc. from the Respondents at 8 1/4 per shares. Claimant contended that on January 21, 1994, Respondents sold his Computer Marketplace, Inc. shares at 7 1/8 without his authorization and purchased 1,200 shares of Steven Madden LTD at 6 without his authorization. Claimant further contended that the Steven Madden LTD shares were subsequently sold at a loss. As a result of the above, Claimant alleged that he has suffered a loss for which Respondents should be held liable.

Respondents, Stratton Oakmont, Inc. and Edward Sparacio, through their representative and outside counsel, Gregg R. Evangelist, Esq., located in Jericho, NY, maintained that all transactions were paid for by the Claimant and there is no record of any contemporaneous objection by the Claimant concerning the allegedly unauthorized activity. Respondents further maintained that the first record of any objection was not until over one year from the time the account was closed. Respondents contended that confirmations and account statements of all transactions were timely sent, received and paid for, without objection. Respondents further contended that pursuant to the customer agreement between the parties and applicable case law, unless transactions are promptly objected to in writing they are deemed to have been ratified by the customer. As a result of the above, Respondents maintained that they should not be held liable.

RELIEF REQUESTED

Claimant, William R. Holmes, requested \$4,814.00 in actual damages.

Respondents, Stratton Oakmont, Inc. and Edward Sparacio, 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, Donald L. Bruton, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant, William R. Holmes, on March 1, 1995, and by the Respondent, Stratton Oakmont, Inc., on March 27, 1995, and by Respondent, Edward Sparacio, on March 29, 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. Respondents, Stratton Oakmont, Inc. and Edward Sparacio, are jointly and severally liable and shall pay to the Claimant, William R. Holmes, \$4,800.00 in actual damages.
2. The parties shall bear their respective costs.
3. The \$125.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant, William R. Holmes, shall be retained by the NASD, Inc. Respondents, Stratton Oakmont, Inc. and Edward Sparacio, are jointly and severally liable and shall pay to the Claimant, William R. Holmes, \$125.00 as reimbursement of the filing fee.

**AFFIRMATION**

I, DONALD L. BRUTON, 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.

  
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Donald L. Bruton, Esq.

DATE OF DECISION: October 31, 1995