

**N.A.S.D. AWARD**

**NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.**

In the matter of the Arbitration Between

**Name of Claimant**

Shohre Afshar

NASD Arbitration  
No.95-01331

**Name of Respondents**

Ash & Co., Inc. and Michael Joseph McHale

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**REPRESENTATION**

For Claimant:

Audwin Carey Spence, Esq.  
Law Office of Audwin Carey Spence  
Inglewood, California

For Respondents:

John P. Cione, Esq  
Law Offices of John P. Cione  
Solana Beach, California

**CASE INFORMATION**

Statement of Claim filed:

March 16, 1995

Claimant's Submission Agreement signed:

January 4, 1995

Joint Statement of Answer and  
Counterclaim filed by Respondent:

April 28, 1995

Respondent Ash & Co., Inc.'s  
Submission Agreement signed:

June 6, 1995

Respondent Michael Joseph McHale's  
Submission Agreement signed:

June 7, 1995

### **HEARING INFORMATION**

Pre-Hearing Conference Date / Session: February 12, 1996 (1 Session)  
Hearing Dates / Sessions: September 24, 1996 (2 Sessions)  
Hearing Location: Los Angeles, California

### **CASE SUMMARY**

Claimant alleged that Respondents executed unauthorized trades in Claimants account, breached the fiduciary duty owed to Claimant, breached their contract with Claimant and were generally negligent in the handling of Claimant's account.

Respondents denied the allegations of wrongdoing found in the Claimants Statement of Claim. Respondents counterclaimed, seeking damages for an allegedly frivolous attack on Respondent McHale.

Claimant denied the allegations of wrong doing found in Respondents' Counterclaim.

### **RELIEF REQUESTED**

Claimant requested actual damages of \$13,030.65, punitive damages, interest at the legal rate of ten percent on any damages awarded from the date of loss, and recovery of Claimant's filing fee, hearing deposit, costs and reasonable attorney's fees.

Respondents requested that all forum fees be assessed against Claimant. In addition, Respondents sought \$10,000.00 for representative fees incurred per the counterclaim.

Claimant requested that Respondents take nothing by reason of their counterclaim.

### **OTHER ISSUES CONSIDERED AND DECIDED**

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

### **AWARD**

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

1. Respondents are jointly and severally liable to and shall pay Claimant the sum of \$7,972.50.
2. No postponement fee shall be paid by Claimant.
3. The parties shall each bear their respective costs, including attorney's fees.

### **FORUM FEES**

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following forum fees are assessed:

One Pre-Hearing Conference @ \$300.00/Session	=	\$ 300.00
<u>Two Hearing Sessions @ \$600.00/Session</u>	=	<u>\$1,200.00</u>
Total Forum Fees Assessed	=	\$1,500.00
 Claimant's One-Half Share	=	\$ 750.00
<u>Credit for Hearing Session Deposit</u>	=	<u>\$ 400.00</u>
Claimant's Balance Due	=	\$ 350.00
 Respondents' joint & Several One-Half Share	=	\$ 750.00
<u>Respondents' unpaid filing fee</u>	=	<u>\$ 500.00</u>
Respondents' Balance Due	=	\$1,250.00

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

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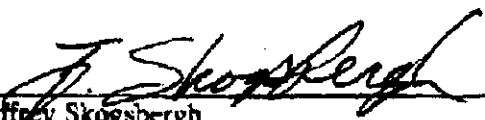
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**ARBITRATORS**

<u>Name</u>	<u>Public / Industry</u>
Jeffrey Skogsbergh	Industry Arbitrator
Louis Eglash	Public Arbitrator
Nancy Spero	Public Arbitrator

**Concurring Arbitrators' Signatures**

  
\_\_\_\_\_  
Jeffrey Skogsbergh

\_\_\_\_\_  
Louis Eglash\_\_\_\_\_  
Nancy Spero

Date of Decision: \_\_\_\_\_

Date of Service: \_\_\_\_\_

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Louis Eglash	Public Arbitrator
Nancy Spero	Public Arbitrator

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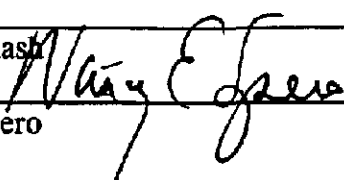
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Nancy Spero	Public Arbitrator

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Date of Decision: \_\_\_\_\_

Date of Service: 11/3/96