

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

---

In the Matter of the Arbitration Between

Name of Claimants

Harvey E. and Elsie E. Thompson

95-01403

Name of Respondents

Lance R. Cuoco  
Lew Lieberbaum & Co., Inc.

---

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on March 20, 1995, Claimants Harvey E. and Elsie E. Thompson ("Claimants"), who appeared Pro Se, alleged that Respondents Lew Lieberbaum & Co., Inc. ("LLC"), and Lance R. Cuoco ("Cuoco"), made repeated recommendations that they purchase U.S. Medical Products Warrants ("Warrants") which they did to their detriment. Claimants further alleged that Cuoco persuaded them to sell their 15,000 shares of Medicis Pharmaceutical in order to have funds for the purchase of the Warrants. Claimants contended that they had not received statements nor had they been contacted by Cuoco subsequent to this transaction. Claimants further contended that they had difficulty getting a price for the stocks they purchased and, therefore, did not sell them as soon as they had wanted. Claimants alleged that as a result of the above transactions regarding "Warrants," they have suffered a loss for which the Respondents should be held liable.

Respondents Lew Lieberbaum & Co., Inc., and Lance R. Cuoco, through their representative and in-house counsel, Lawrence P. Sandor, Esq., maintained that Claimants opened an account with LLC and informed Cuoco that their annual income was \$50,000.00 and their net worth was \$200,000.00. Respondents further maintained that Cuoco solicited the purchase of U.S. Medical Products Warrants and Harvey Thompson "was pleased with the suggestion and agreed to purchase warrants." Respondent Cuoco contends that he made many attempts to contact the Claimants regarding the price of the "Warrants" and was unsuccessful but on two occasions. Respondents further contended that the price fluctuation and volatility is associated with many over-the-counter stocks and that as a result of the above, they should not be held liable.

RELIEF REQUESTED

Claimants Harvey E. and Elsie E. Thompson, requested \$5,000.00 in actual damages.

Respondents Lew Lieberbaum & Co., Inc., and Lance R. Cuoco, requested that the claims of the Claimants be dismissed.

Page Two  
Award 95-01403

**AWARD**

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, James B. Eichberg, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants Harvey E. and Elsie E. Thompson, on March 17, 1995, and by the Respondent Lew Lieberbaum & Co., Inc., on May 31, 1995, but not by Respondent Lance R. Cuoco, 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. The claims of the Claimants Harvey E. and Elsie E. Thompson, against Respondent Lew Lieberbaum & Co., Inc., are dismissed in their entirety.
2. The Respondent Lance R. Cuoco, is liable and shall pay to the Claimants Harvey E. and Elsie E. Thompson, \$4,000.00 in actual damages.
3. The parties shall bear their respective costs.
4. All other relief requests are denied.
5. The \$125.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants Harvey E. and Elsie E. Thompson, shall be retained by the NASD, Inc.

**AFFIRMATION**

I, JAMES B. EICHBERG, 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.

  
James B. Eichberg

DATE OF DECISION: October 26, 1995