

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Kenneth and Diana Eyton-Jones

95-02124

Name of Respondents

Josephthal Lyon & Ross, Inc.
Robert M. Pelio

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on May 3, 1995, Claimants Kenneth and Diana Eyton-Jones ("Claimants"), who appeared Pro Se, alleged that Respondents Josephthal Lyon & Ross, Inc. ("JLR") and Robert M. Pelio ("Pelio"), on September 16, 1994, charged 1,000 shares of Reddi Brake Supply Corp. stock to a margin account in their name. Claimants further alleged that they never opened a margin account, nor did they place the trade. Claimants contended that they complained about this transaction, so on December 7, 1994 the Respondents sold the shares and the margin account was closed, however, that same day 1,000 shares of Ministor Peripherals International were purchased for their other account without authorization. Claimants further contended that at the request of Pelio they placed their complaint in writing to Respondents on March 30, 1994. Claimants alleged that they were unable to get a favorable response from JLR nor Pelio and that as a result of the above, they have suffered a loss for which the Respondents should be held liable.

Respondents Josephthal Lyon & Ross, Inc. and Robert M. Pelio, through its representative and in-house counsel, Robert E. Murphy, Esq., maintained that Claimants had opened a margin account with JLR on February 21, 1994. Respondents further maintained that Claimants only made two trades with JLR and that the Claimants' complaints raised about those trades were addressed by JLR. Respondent JLR contended that Respondent Superior liability over Pelio began after the Reddi Brake Supply Corp. stock sale on December 7, 1994. Respondents further contended that Claimants had previously held a position in Ministor Peripherals International which is consistent with their contention that the transaction was authorized. Respondents maintained that Claimants waited until March of 1995 to complain about the unauthorized trades because the trades were authorized. Respondents further maintained that as a result of the above, they should not be held liable.

RELIEF REQUESTED

Claimants Kenneth and Diana Eyton-Jones, requested \$3,309.29 in actual damages, plus punitive damages.

Respondent Josephthal Lyon & Ross, Inc. and Robert M. Pelio, requested that the claims of the Claimants be dismissed.

AWARD


Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Arthur J. Leibell, Esq. P.A., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants Kenneth and Diana Eyton-Jones, on April 25, 1995, and by and by the Respondents Josephthal Lyon & Ross, Inc. and Robert M. Pelio, on August 9, 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. The claims of the Claimants Kenneth and Diana Eyton-Jones, against Respondents Josephthal Lyon & Ross, Inc. and Robert M. Pelio, are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. All other relief requests are denied.
4. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants Kenneth and Diana Eyton-Jones, shall be retained by the NASD, Inc.

AFFIRMATION

I, ARTHUR J. LEIBELL, ESQ., P.A., 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.



Arthur J. Leibell, Esq., P.A.

DATE OF DECISION: November 16, 1995