

## **AWARD**

**NASD, Regulation, Inc.,  
Office of Dispute Resolution**

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In the Matter of the Arbitration Between

Louis Monaco

Claimant

NASD Regulation, Inc.  
No. 95-05669

v.

La Jolla Securities Corporation  
Marvin Susemihl  
Bruce Biddick

Respondents

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### **REPRESENTATION OF PARTIES**

Louis Monaco ("**Claimant**") was represented by Irwin Stein, Esq., San Francisco, California.

La Jolla Securities Corporation and Bruce Biddick ("**La Jolla Securities**") were represented by Richard R. Leuthold, Esq., San Diego, California.

Marvin Susemihl ("**Susemihl**") was represented by Kennan E. Kader, Esq., San Diego, California.

### **CASE INFORMATION**

Claimant's Statement of Claim was filed on or about November 28, 1995. Claimant's Submission Agreement was signed on November 24, 1995.

The Statement of Answer for La Jolla Securities Corporation was filed on or about January 30, 1996. The First Amended Response to Statement of Claim for La Jolla Securities was filed on or about March 29, 1996. The Submission Agreement for La Jolla Securities Corporation was signed on January 31, 1996. The non-notarized submission agreement for Bruce Biddick was signed at the hearing on November 18, 1996.

The Statement of Answer for Marvin Susemihl was filed on or about February 16, 1996.

### **HEARING INFORMATION**

The hearing was held in San Diego, California on:

November 18, 1996	2 sessions
November 19, 1996	2 sessions
November 20, 1996	3 sessions

### **CASE SUMMARY**

Claimant alleges that La Jolla Securities and Susemihl fraudulently sold the Claimant private offerings in "developing" companies. Claimant further alleges that the companies were not legitimate and in fact were companies without operations, income, assets or legitimate prospects. Additionally, Claimant alleges that the majority of the trades in his account were unauthorized.

La Jolla Securities denied the allegations set forth in the Statement of Claim. La Jolla Securities specifically argued that they did not have any specific knowledge of Susemihl's actions and in no way approved of such actions. La Jolla Securities further argued that the securities purchased were appropriate and met the Claimant's stated objectives and investment goals.

Susemihl denied the allegations set forth in the Statement of Claim. Susemihl specifically argued that the Claimant did not lose money in his account but in fact made a profit. Additionally, Susemihl argued that the claim should be barred by the applicable statute of limitations.

### **RELIEF REQUESTED**

Claimant requested an award in the amount of \$200,000 plus interest. Additionally, Claimant requested an award of unspecified punitive damages.

Both respondents requested that the claims asserted against them be denied in their entirety.

### **OTHER ISSUES CONSIDERED & DECIDED**

Upon review of the file and the representations made by/on behalf of the Claimant, the undersigned arbitrators have determined that Respondent Susemihl had received due notice of the hearing as required under §26 of the Code and that arbitration of the matter would proceed pursuant to §29 of the Code and is bound by the determination of the arbitration panel on all issues submitted.

The parties have agreed that a handwritten, signed Award may be entered. 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. Claimant is awarded and Respondent Susemihl shall pay to Claimant the sum of \$75,000.

2. Claimant is awarded and Respondent La Jolla Securities Corp. shall pay to Claimant the sum of \$25,000.
3. Claimant's request for punitive damages is denied.

### **FORUM FEES**

Forum fees are calculated at the rate of \$750 per hearing session and \$300 for each prehearing conference, if any. There were 7 sessions x \$750 = \$5,250 in forum fees. Pursuant to §43(b) of the NASD Code of Arbitration Procedure (the "Code"), a hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with an arbitrator, which lasts four (4) hours or less. Pursuant to § 43(c) of the Code of Arbitration Procedure, the parties shall divide the forum fees into thirds, with the claimant bearing one-third, La Jolla bearing one-third and Susemihl bear one-third.

Total Fees	
7 Hearing Sessions @ \$750.00 =	\$5,250.00
<b>Total</b>	<b><u>\$5,250.00</u></b>

Claimant's 1/3 share	\$1,750.00
Credit for deposit	<u>\$ 750.00</u>
Claimant's Balance	\$1,000.00

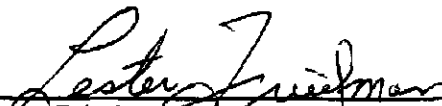
Respondent La Jolla Sec.	
1/3 share	\$1,750.00

Respondent Susemihl	
1/3 share	\$1,750.00

Pursuant to §43(c) of the Code, the NASD shall **retain** the non-refundable filing fee in the amount of \$200 and shall **retain** as forum fees the hearing session deposit in the amount of \$750 previously deposited with the NASD by the Claimant Louis Monaco.

Pursuant to §45 of the Code, the NASD shall retain the member surcharge fee in the amount of \$350 paid or owing by La Jolla Securities Corporation.

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

  
Lester Friedman, Esq.  
Public Arbitrator, Presiding Chair

Dated:

12-27-96

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James H. Bowersox  
Public Arbitrator

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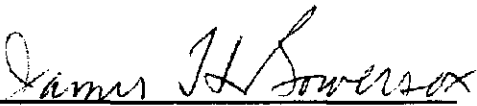
J. A. Dutcher  
Industry Arbitrator

Dated:

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Lester Friedman, Esq.  
Public Arbitrator, Presiding Chair

  
James H. Bowersox  
Public Arbitrator

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12-27-96

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J. A. Dutcher  
Industry Arbitrator

NASD Arbitration No. 95-05669

Award Page 4 of 4

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Dated:

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Lester Friedman, Esq.

Public Arbitrator, Presiding Chair

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James H. Bowersox

Public Arbitrator

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J.A. Dutcher

Industry Arbitrator

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12/31/96

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