

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Raymond Iacobacci

96-00673

Name of Respondent

Alex Lemberg

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**REPRESENTATION**

Claimant Raymond Iacobacci ("claimant") appeared pro se.

Respondent Alex Lemberg ("respondent") did not enter an appearance in this matter.

**CASE INFORMATION**

Statement of Claim filed on February 27, 1996.

Claimant's Submission Agreement signed on January 29, 1996.

Respondent did not file an Answer or a Submission Agreement with the NASD.

**HEARING INFORMATION**

Hearing Date/Session: August 2, 1996 - 1 Session

The hearing was held at the offices of the National Association of Securities Dealers, Inc., located in New York, New York.

**CASE SUMMARY**

Claimant alleged that he had an account with Vision Investment Group ("Vision") and that respondent was his broker. Claimant further alleged that respondent executed a purchase of 5000 shares of Prentice Capital Inc. ("Prentice") in his account without his authorization at a price of \$5.25. Claimant asserted that, when he called respondent to find out what happened, respondent told him that it was a computer error and the trade would be canceled.

Claimant alleged that, subsequent to his conversation with respondent, another unauthorized trade was executed by respondent, this time for 3500 shares of Prentice at a price of \$5.25. Claimant further alleged that he thought it was another computer error, but about a week later he received a sale notice stating that he owed \$1978.00. Claimant asserted that he mailed a check to J.W. Charles Clearing Corporation, for this amount.

### **RELIEF REQUESTED**

Claimant requested an award equal to the amount he paid plus expenses incurred.

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

The arbitrator panel made the following rulings concerning respondent Lemberg who did not file a Statement of Answer or a Submission Agreement and who also failed to appear at the hearing conducted in this matter without obtaining any postponement/adjournment thereof:

1. Pursuant to Section 1 of the Code of Arbitration Procedure (the "Code"), the arbitrator found subject matter jurisdiction over this entire controversy.
2. The arbitrator found that respondent was a person associated with a member of the NASD at the time this controversy arose. Consequently, the arbitrator found personal jurisdiction over respondent pursuant to Section 12 of the Code.
3. In view of (2) above, the arbitrator found that respondent was required to file with the NASD a Statement of Answer and a properly executed Submission Agreement pursuant to Section 25(b) of the Code. In this regard, the arbitrator found that the Statement of Claim was properly served upon respondent, pursuant to Section 25(a) of the Code.
4. In addition, in accordance with Sections 21, 26 and 29 of the Code, the arbitrator found that the NASD provided respondent with "due notice" of the hearing conducted in this matter by regular and certified mail. The arbitrator, therefore, determined to proceed with the hearing without respondent, whose absence was unexcused.

### **AWARD**

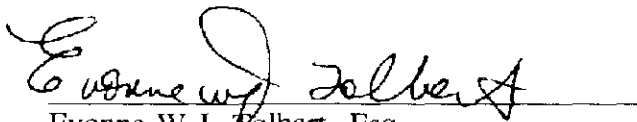
After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent Lemberg be and hereby is liable and shall pay claimant the sum of \$1976.00.
2. Respondent Lemberg be and hereby is liable and shall pay claimant the sum of \$50.00 to reimburse claimant for the fees he previously paid to the NASD.

**FORUM FEES**

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the arbitrator has determined that the NASD shall retain the \$25.00 non-refundable filing fee and the \$25.00 hearing session deposit previously paid by claimant as full consideration for the hearing conducted in this matter.

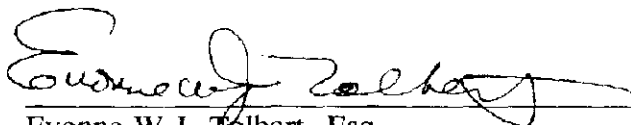
Arbitrator's Signature

A handwritten signature in cursive script, reading "Evonne W.J. Tolbert", written over a horizontal line.

Evonne W.J. Tolbert, Esq.  
Public Arbitrator

Date of decision: August 20, 1996

I, **Evonne W.J. Tolbert, Esq.**, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein, and who executed this instrument which is my award.

A handwritten signature in cursive script, reading "Evonne W.J. Tolbert", written over a horizontal line.

Evonne W.J. Tolbert, Esq.