

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

James Garrett

96-01356

Name of Respondent

John Lembo

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**CASE SUMMARY**

In a claim filed with the National Association of Securities Dealers, Inc. on March 27, 1996, claimant James Garrett ("claimant"), who appeared Pro Se, alleged that respondent John Lembo ("respondent") was manipulative, deceptive and fraudulent in his securities transactions regarding All Pro Products and Eaglevision. Claimant further alleged that respondent misrepresented price predictions such as informing him that Eaglevision would go from \$6.50 per share to \$10.00. Claimant also alleged that respondent badgered him on the phone asking that he purchase more stock. Claimant contended that in February of 1995, the stocks he purchase became worthless. Claimant further contended that as a result of the above, he has suffered a loss for which the respondent should be held liable.

Respondent John Lembo denied claimants allegations of wrongdoing. Respondent maintained that he properly discharged his duties, responsibilities and obligations and in all respects acted in accordance with applicable law as well as accepted industry standards and practices. Respondent further maintained that claimant purchased securities from Hanover Sterling & Co., however, respondent denied recommending unsuitable securities and did not misrepresent or fail to disclose material facts concerning claimant's investments. Respondent also maintained that as a matter of law, incorrectly stating that the investments would be profitable is insufficient to sustain a claim for fraud. Respondent contended that claimant is barred from recovery under the doctrine of ratification because he did not object to the transactions in a timely manner. Respondent further contended that the claimant should not be permitted to play the market at his expense. Respondent also contended that as a result of the above, he should not be held liable.

**RELIEF REQUESTED**

Claimant James Garrett requested \$10,000.00 in actual damages.

Respondent John Lembo requested that the claims be dismissed in their entirety.

**OTHER ISSUES CONSIDERED AND DECIDED**

The arbitrator considered and reviewed all documentation submitted by the parties including the Amended Statement of Claim and the Amended Statement of Answer.

**AWARD**

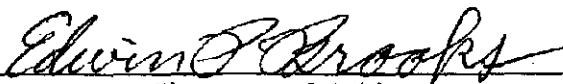
Pursuant to Section 10302 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Edwin P. Brooks, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the claimant on March 12, 1996, and by respondent on June 4, 1996.

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. Respondent John Lembo is liable and shall pay to the claimant James Garrett \$7,375.00 in actual damages
2. The parties shall bear their respective costs.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the claimant shall be retained by the NASD, Inc. Respondent John Lembo is liable and shall pay to the claimant James Garrett \$150.00 as reimbursement of the filing fee.
4. All other relief requests are denied.

**AFFIRMATION**

I, Edwin P. Brooks, 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.

  
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Signature of Arbitrator

DATE OF DECISION: November 27, 1996