

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Carol Linker

96-02345

Name of Respondents

Royal Alliance Associates, Inc.
Morton J. Potoff

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on June 3, 1996, Claimant Carol Linker, Ph.D., CFP ("Claimant"), who appeared Pro Se, alleged that Respondents Royal Alliance Associates, Inc. ("RAA") and Morton J. Potoff ("Potoff") failed to pay her the commissions she generated prior to terminating her employment with RAA on August 16, 1994. Claimant further alleged that commission owed her were sent to Potoff for approximately 30 days after her departure because of logistical and technological delays that prevented her reappointment to annuity companies. Claimant also alleged that she has not been paid for several transactions and, in addition, she cannot find a record of payment for a \$20,000.00 investment by Vreeland at Nationwide Life Insurance for the Best of America product. Claimant contended that her account executive agreement with Respondent states that she is entitled to receive all commissions due her on account of securities she sold prior to termination. Claimant further contended that as a result of the above, she has suffered a loss for which the Respondents should be held liable.

Respondent Royal Alliance Associates, Inc. through its representative and in-house counsel, Barbara McInerney, Esq., maintained that all transactions for which Claimant is seeking payment occurred after her termination. Respondent further maintained that it does not pay commissions on transactions place after a representative terminates his or her license. Respondent also maintained that it cannot account for any delay which would have prevented Claimant from being reappointed to the annuity with which she does business. Respondent contended that as a result of the above, it should not be held liable.

Respondent Morton J. Potoff, who appeared Pro Se, maintained that Claimant terminated her association with RAA and that no technological problems arose during the transfer of her accounts. Respondent further maintained that as a courtesy RAA will assist terminated representatives in the batch transfer of accounts but only if such help is requested. Respondent also maintained that Claimant never asked for assistance and therefore, any problems with the transfer are exclusively Claimant's responsibility. Respondent contended that commissions on Claimant's accounts were received by Respondents for 30 days after her termination but that such commissions could not be paid to Claimant as she was no longer licensed by RAA. Respondent further contended that even if Claimant is entitled to commissions, she incorrectly requested the full gross dealer concession. Respondent also contended that, at most, she should receive 79% of the amount claimed. Respondent asserted that as a result of the above, he should not be held liable.

RELIEF REQUESTED

Claimant Carol Linker, Ph.D., CFP requested \$3,564.68 in actual damages plus reimbursement of the filing fee.

Respondent Royal Alliance Associates, Inc. requested that the claims be dismissed in their entirety.

Respondent Morton J. Potoff requested that the claims be dismissed in their entirety.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Peter Bizinkauskas, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on May 28, 1996 and by Respondents Royal Alliance Associates, Inc. on June 25, 1996 and Morton J. Potoff on June 19, 1996.

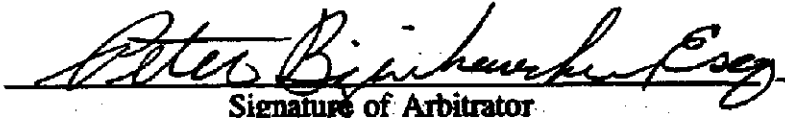
And, the Arbitrator, having considered the proof of the parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. The Respondents Royal Alliance Associates, Inc. and Morton J. Potoff are jointly and severally liable and shall pay to the Claimant Carol Linker, Ph.D., \$2,026.00 in actual damages.
2. The parties shall bear their respective costs.

3. The \$575.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc. The Respondents Royal Alliance Associates, Inc. and Morton J. Potoff are jointly and severally liable and shall pay to the Claimant Carol Linker, Ph.D., \$575.00 as reimbursement of the filing fee.
4. All other relief requests are denied.

AFFIRMATION

I, **PETER BIZINKAUSKAS, ESQ.**, 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.


Signature of Arbitrator

DATE OF DECISION:

September 3, 1996