

N.A.S.D. REGULATION AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS REGULATION, INC.

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In the Matter of the Arbitration Between

Name of Claimant

Thomas H. Stafford

96-02538

Name of Respondents

Josephthal Lyon & Ross Inc.  
Matthew Jules

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**REPRESENTATION**

For claimant Thomas H. Stafford ("claimant") appeared his counsel James D. Bryce, Esq. of the law firm Mackay, Daniel, King, Hudson & Bryce located in Decatur, Georgia.

For respondents Josephthal Lyon & Ross, Inc. ("JLR") and Matthew Jules ("Jules") appeared their representative and in-house counsel, Robert Murphy, located in New York, New York.

**CASE INFORMATION**

Statement of Claim filed: June 13, 1996.

Claimant's Submission Agreement signed on: June 10, 1996.

Joint Statement of Answer filed by respondents on: August 20, 1996.

Respondent JLR's Submission Agreement signed on: August 15, 1996.

Respondent Jules' Submission Agreement signed on: August 19, 1996.

**HEARING INFORMATION**

Hearing Dates/Sessions: April 16, 1997 - one session

The hearing was conducted at the Grand Hyatt Hotel located at 3300 Peachtree Road, N.E. in Atlanta, Georgia.

### **CASE SUMMARY**

Claimant alleged that in June of 1994 he was 82 years old and was contacted by respondent Jules, an employee of respondent JLR. Claimant further alleged that Jules used high pressure sales techniques to convince him to purchase shares of ACTV. Claimant also alleged that he informed Jules that he did not need additional investments but that Jules badgered him into purchasing 1900 shares of ACTV. Claimant contended that he later learned that the stock was risky and not suitable for him due to his age and financial condition. Claimant further contended that he called and complained to JLR finding that Jules was no longer employed there. Claimant also contended that as a result of the above, he has suffered a loss for which the respondents should be held liable.

Respondents maintained that Jules was introduced to claimant by an ex-coworker from Jules employment by Prudential. Respondents further maintained that claimant was born in 1912, is retired with a \$50M annual income, was series 7 licensed, had purchase a number of other low priced stocks and was very interested in the stock market. Respondents further maintained that on June 23, 1994, Jules contacted claimant and recommended ACTV as a suitable investment based on the growth/income/speculation objectives provided by claimant. Respondents also maintained that claimant authorized the purchase of 3000 shares but that only 1900 were purchased because of claimant's limit order on the price. Respondents contended that on September 30, 1994 the shares were valued at \$10,213.00 and on October 28, 1994 the shares were transferred out. Respondents also contended on September 8, 1994, Jules recommended that claimant sell shares of Blockbuster Video held at another firm in order to raise funds to purchase more shares of ACTV but that claimant declined to make the purchase. Respondents further contended that JLR was not the subject of an NASD investigation regarding ACTV. Respondents asserted that claimant is an experienced investor who appears to have filed this claim after noting a recent news article concerning an ACTV investigation which is not related to claimant's purchase. Respondents maintained that as a result of the above, they should not be held liable.

### **RELIEF REQUESTED**

Claimant requested \$10,280.38 in actual damages plus reimbursement of filing fees, expenses and attorney's fees.

Respondents requested that the claims be dismissed in their entirety.

### **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. The claims of the claimant Thomas Stafford against respondents Josephthal Lyon & Ross, Inc. and Matthew Jules be and hereby are dismissed in their entirety.

2. The parties shall bear their respective attorney's fees and costs.
3. All other relief requests are denied.

**FORUM FEES**

Pursuant to Rule 20332(c) of the Code of Arbitration Procedure, the arbitrator has determined that NASD Regulation shall retain the \$100.00 non-refundable filing fee previously deposited by claimant and have assessed the following forum fees:

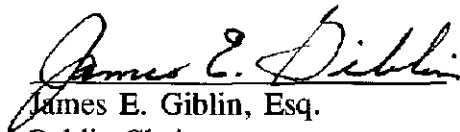
one session x \$300.00

Claimant be and hereby liable for the sum of \$150.00 representing one-half of the total amount of forum fees assessed. Claimant previously deposited \$300.00 with NASD Regulation. Therefore, nothing is owed to NASD Regulation by claimant.

Respondents Matthew Jules and Josephthal Lyon & Ross, Inc. be and hereby are jointly and severally liable for the sum of \$150.00 representing one-half of the total amount of forum fees assessed. Therefore, respondents shall pay to claimant \$150.00 as reimbursement of one-half of the hearing session deposit.

**ARBITRATORS' SIGNATURES**

I, James E. Giblin, Esq., do hereby swear or affirm, that I am the individual described herein, and who executed this instrument which is my oath and award.

  
James E. Giblin, Esq.  
Public Chairperson

Date of Decision: May 19, 1997