

N.A.S.D. REGULATION AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

David Meltzer Revocable Trust

96-03480

Name of Respondents

Catello Rispoli a/k/a Carl Banks
Nationwide Securities Corp.
Carl D'Elia

CASE SUMMARY

In a case filed with National Association of Securities Dealers Regulation, Inc. on August 12, 1996, claimant David Meltzer Revocable Trust ("claimant" or David Meltzer), who appeared Pro Se, alleged that respondents Catello Rispoli (a/k/a Carl Banks) ("Banks"), Nationwide Securities Corp. ("Nationwide") and Carl D'Elia ("D'Elia") stole money from him. Claimant further alleged that he had purchased 1500 shares and 1000 warrants of Gaylord Companies, Inc. ("Gaylord") for 44,609.50. Claimant also alleged that after holding the stock for a short period of time his broker Banks called and suggested that he sell the Gaylord stock and buy more warrants, because there was more money in warrants. Claimant asserted that he took Banks' advice and purchases 3300 more warrants. Claimant further asserted that in February he received his statement which showed a value of \$7,795.00 and told Banks to sell and take the profit for his account. Claimant also asserted that Banks advised him that he had inside information that the warrants would go higher and would not let him sell. Claimant contended that Banks told him that he would get back to him with additional information on the future of the stock.

Claimant further contended that he had not heard from Banks until he received the confirmation for the unauthorized purchase of 1300 shares of Thermo-Mizer Environmental ("TME") warrants for \$4,225.00. Claimant also contended that he immediately called Banks and was told he was not in. Claimant alleged that after several attempts and threatening to report them to the NASD, he was told that Banks had just walked in. Claimant further alleged that Banks told him that he tried to call him several times and left messages on his answering machine. Claimant also alleged that he called Banks a liar, since he did not own an answering machine and him and his wife are 70 and 75 years old and spend a good deal of time at home. Claimant asserted that Banks told him that he knew why he was calling and that the transaction was a mistake, the wrong account number had been used and that he was canceling the trade. Claimant asserted that the mistake was not taken care of and when he spoke to Shawn Aaron at Nationwide's Tampa office he was told that his account was worth \$15.00.

Respondent Catello Rispoli (a/k/a Carl Banks), who appeared Pro Se, maintained that claimant is an accredited investor with extensive experience in speculative issues and maintained a minimum of 30 accounts with various brokerage firms. Respondent Banks further maintained that when claimant called

to sell Gaylord, he advised him that the company had strong growth potential since he had read the company's 10k, 10Q and final prospectus. Respondent Banks also maintained that at no time was he ever in a position to ever possess inside information nor did he relay such to the client.

Respondent Banks contended that at no time has he ever executed an unauthorized trade in any account at Nationwide nor has he ever done an unauthorized trade. Respondent Banks further contended that the handwriting on the ticket in question is not his handwriting nor does he know who it belongs to. Respondent Banks also contended that when he received the call from claimant, he called Mike Haefling ("Haefling") of the Texas office, and told him about the incorrect purchase that had been made in claimant's account and asked him to cancel the stock that was bought and rebill the stock that was sold. Respondent Banks maintained that Haefling said he would discuss the matter with Kevin Williams, Nationwide's President. Respondent Banks further maintained that after two weeks of trying to solve the problem to no avail, he submitted his resignation on April 2, 1996, as it became evident that Nationwide provided no support for their brokers and clients and never had a compliance officer present in their office. Respondent Banks contended that Haefling at a later date notified him that there was over 500 complaints about unauthorized trades and that all the records were being checked.

Respondent Carl D'Elia ("D'Elia") through his representative and attorney Joseph DaProcida of the law firm Wexler & Burkhart located in Mitchel Field, New York, maintained that the above transaction complained of by claimant was executed without his prior authority, approval or knowledge. Respondent D'Elia further maintained that claimant does not allege, nor can he, that he ever spoke with or had any other contact whatsoever with him. Respondent D'Elia also maintained that the only reason why he was named as a respondent was because his name appeared on claimant's monthly account statements and written confirmations issued by claimant for the subject trades. Respondent D'Elia contended that he did not receive any commissions for the subject trades.

Respondent Nationwide Securities Corp. ("Nationwide") through its representative and counsel Jonathan Pace of the law firm Pace & Rickey located in Dallas, Texas, maintained that they cannot neither admit nor deny whether the purchase of the TME warrants was authorized. Respondent Nationwide further maintained that all of the documents respondent has indicates that the sale was appropriate. Respondent also alleged that assuming that the purchase was unauthorized, claimant must mitigate his damages.

RELIEF REQUESTED

Claimant David Meltzer requested \$7,780.00 in damages.

Respondent Carl Banks requested that the claims of claimant be dismissed in their entirety.

Respondent D'Elia requested that the claims of claimant be dismissed in their entirety, plus costs and expenses in defending this arbitration and any other and further relief the arbitrator deems just and proper.

Respondent Nationwide requested the claims of claimant be dismissed in their entirety or in the alternative limit the damages to the difference between claimant's initial investment of \$4,609.50 and the value of the TME warrants.

AWARD

Pursuant to Rule 10302 of the Code of Arbitration Procedure, a single Public Arbitrator, Arnold Limsky, was selected to review the matter in controversy between the parties set forth in Submissions to

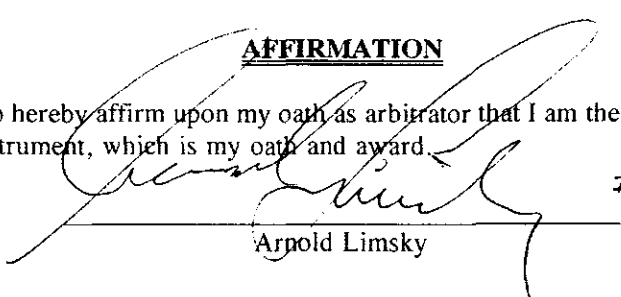
Arbitration signed by claimant David Meltzer on August 8, 1996 and by respondents Catello Rispoli on October 3, 1996 and by Nationwide Securities on September 10, 1996 and Carl D'Elia on November 4, 1996 as required by Rules 10301 and 10302 of the Code of Arbitration Procedure.

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. Respondents D'Elia, Banks and Nationwide be and hereby are jointly and severally liable and shall pay claimant the sum of \$4,609.50.
2. Respondents D'Elia, Banks and Nationwide be and hereby are jointly and severally liable and shall pay claimant an interest rate of 9.5% per annum from April 1, 1997 to paid in full.
3. Claimant David Meltzer when payment to him is made in full, be and hereby is liable and shall return to respondents 1300 TME warrants at that time.
4. All other relief request are denied.
5. The \$150.00 filing fee previously deposited by the National Association of Securities Dealer Regulation, Inc. by claimant shall be retained by NASD Regulation, Inc. Respondents D'Elia, Banks and Nationwide be and hereby are jointly and severally liable and shall pay claimant the sum of \$150.00 as reimbursement of the filing fee.

AFFIRMATION

I, **Arnold Limsky**, do hereby affirm upon my oath as arbitrator that I am the individual described herein who executed this instrument, which is my oath and award.


Arnold Limsky

A-10970

Date of Decision: April 30, 1997