

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

William F. Leahy

96-04464

Name of Respondents

D.H. Blair & Company  
Alfred S. Palagonia  
Gregory Bellotti

CASE SUMMARY

In a case filed with the National Association of Securities Dealers Regulation, Inc. on October 7, 1996, claimant William F. Leahy ("claimant") through his representative and son Michael J. Leahy alleged that respondents D.H. Blair & Co. ("D.H. Blair"), Al Palagonia ("Palagonia") and Greg Bellota ("Belloti") failed to close his account when he requested them to do so. Claimant further alleged that on June 20th, he called one of the two brokers and told that person to sell securities and send the credit balance to him. Claimant also alleged that nothing happened at the time so on July 8th he called respondents again with the same request. Claimant asserted that he had his attorney call an make the same request on July 15th and that the account was liquidated thereafter.

Claimant further asserted that on July 23rd, his son spoke with Bellotti who told him that his father did call in June and that he told his father not to close the account because they were coming out with an IPO. Claimant also asserted that his son asked Bellotti if there were any tapes of the conversation and Bellotti said no.

Respondents D.H. Blair, Palagonia and Bellotti (collectively referred to as "respondents") through their representative and in-house counsel Howard M. Wynn denied that either Palagonia and Bellotti were given instruction by claimant to liquidate his account on or about June 20, 1996. Respondents further maintained that it is interesting to note how claimant does not remember with whom he spoke with yet clearly remembers the date of this alleged conversation. Respondents also maintained that had claimant given instructions to liquidate his account, he would have received written confirmations within three days as he had on all prior transaction during the account's five year life-span.

Respondents contended that assuming arguendo, that claimant place the June 20 order, his failure to receive confirmations for the sales should have triggered action on his part. Respondents further contended that instead in sat idly by while the account declined in value. Respondents also contended that on July 8, 1996, 18 days after the alleged instructions, claimant again called an unspecified person at D.H. Blair and repeated his request to liquidate. Respondents denied that either Palagonia or Bellotti ever spoke with an attorney representing claimant. Respondents denied that claimant was induced to maintain his account with the promise of a new unspecified IPO.

**RELIEF REQUESTED**

Claimant William F. Leahy requested \$6,255.09 for loss suffered due to respondents failure to close out the account.

Respondents D.H. Blair, Belloti, and Palagonia requested that the claims of the claimant be dismissed in their entirety.

**AWARD**

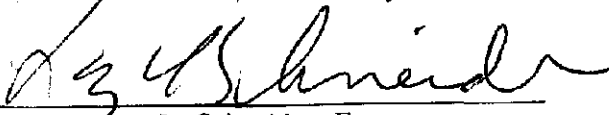
Pursuant to Rule 10302 of the Code of Arbitration Procedure, a single Public Arbitrator, Laz L. Schneider, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by claimant William F. Leahy on September 27, 1996 and by respondents D.H. Blair on November 18, 1996, Alfred Palagonia on November 18, 1996 and Gregory Belloti on November 18, 1996 as required pursuant to 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 for determination as follows:

1. The claims of claimant William Leahy against respondents D.H. Blair, Palagonia, and Belloti are dismissed in their entirety.
2. The \$150.00 filing fee previously deposited with the National Association of Securities Regulation, Inc. by claimant shall be retained by NASD Regulation, Inc.

**AFFIRMATION**

I, **Laz L. Schneider, 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.

  
Laz L. Schneider, Esq.

Date of Decision: March 26, 1997