

## AWARD

NASD Regulation, Inc.

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In the Matter of the Arbitration Between

Name of Claimant

Jeff Raim, and  
J. Lynne Raim

and

98-00153

Name of Respondent

Duke and Company

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### REPRESENTATION OF PARTIES

Jeff Raim, and J. Lynne Raim ("Claimants") were represented by David Anson, Esq., of DeConcini, McDonald, Yetwin & Lacy, Tucson, Arizona.

Duke and Company ("Respondent") was not represented, and failed to appear at the hearing.

### CASE INFORMATION

Claimants filed the Statement of Claim on or about January 13, 1998, and filed a revised Statement of Claim on or about February 25, 1998. Claimants signed the Submission Agreement on January 17, 1998.

Respondent failed to file an Answer and Submission Agreement.

### HEARING INFORMATION

A telephonic hearing with the panel was held on September 25, 1998 for one (1) session.

The Arbitration Panel held a hearing on December 3, 1998 in Scottsdale, Arizona for a total of one (1) session.

### CASE SUMMARY

Claimants alleged that in February, 1997, Respondent purchased 15,000 Renaissance Entertainment Class A Warrants Exp. 1/27/2000 in Claimants' account without Claimants' authorization or permission. Claimants further alleged that Respondent improperly debited Claimants' account \$61,885 for such purchase.

### **RELIEF REQUESTED**

In their Statement of Claim, Claimants requested that the trade be rescinded and have returned to Claimants' account the sum of \$61,885 with interest at the legal rate from the date of purchase. Claimants also requested an award of attorneys' fees and costs.

### **OTHER ISSUES CONSIDERED & DECIDED**

Upon review of the file and the representations made by/on behalf of the Claimant, the undersigned arbitrators have determined that Respondent has been properly served with the Statement of Claim pursuant to Rules 10302 and 10314 of the NASD Code of Arbitration Procedure (the "Code"). The undersigned arbitrators have also determined that Respondent had received due notice of the hearing as required under Rule 10315 of the Code and that arbitration of the matter would proceed pursuant to Rule 10318 of the Code.

Claimants' filed a request that a Default Award be entered against Respondent. Respondent failed to respond to the Statement of Claim and the request. A telephonic hearing was held, with the panel, to hear argument from the parties on the default issue. After due notice, Respondent failed to appear. After the hearing, the arbitrators granted the Motion for Default. In the Order, Respondent was not allowed to contest the allegations in the Statement of Claim regarding the unauthorized trade. A hearing was set for December 3, 1998, solely on the issues of damages, attorneys' fees and costs.

The parties appearing in this case have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with NASD Regulation, Inc. Office of Dispute Resolution.

### **AWARD**

After considering the pleadings, the testimony, and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

Respondent is liable for, and shall pay to the Claimants the sum of \$92,781 as satisfaction of their claims made herein. The award is conditional upon the Claimants tendering to respondent, or its successor in interest, the 15,000 Class A Renaissance Entertainment Warrants, taking into account any splits or reverse splits with respect to such Warrants. That is, the amount of Warrants delivered should correspond to the equivalent of 15,000 Warrants at the date of acquisition. To the extent that the Claimants do not tender such Warrants, then the \$92,781 sum shall be reduced by the proportion of the Warrants not so delivered.

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Arbitration No. 98-00153  
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### OTHER COSTS

Respondent is liable for, and shall pay to Claimants the sum of \$650 as an award of NASD filing costs incurred in this matter.

### FORUM FEES

Forum fees are calculated at the rate of \$500 per hearing session and \$500 for each telephonic hearing with the entire panel. There was one (1) telephonic hearing session @ \$500 and one (1) hearing session @ \$500 = \$1,000 in forum fees. Pursuant to Rule 10332(b) of the Code, a hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with an arbitrator, which lasts four (4) hours or less.

Pursuant to Rule 10332(c) of the Code, NASD Regulation, Inc. shall retain the non-refundable filing fee in the amount of \$150 and shall retain as forum fees the hearing session deposit in the amount of \$500 previously deposited with NASD Regulation, Inc. by the Claimants.

Additional forum fees in the amount of \$500 are assessed by the arbitrators against the Respondent.

### OTHER FEES

Pursuant to Rule 10333 of the Code, and based on the amounts set forth in the Statement of Claim, Respondent was assessed a member surcharge in the amount of \$1,000, pre-hearing processing fees of \$600, and a hearing processing fee in the amount of \$1,500. The fees were waived.

Fees are payable to NASD Regulation, Inc.

Dated:

Richard M. Weinroth  
Public Arbitrator, Presiding Chair

Steven M. Vakula  
Public Arbitrator

Stephen T. Yeargan  
Industry Arbitrator

1-7-98

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Dated: 1/7/99