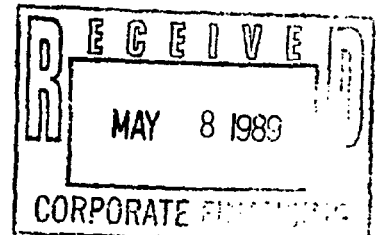


NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.



In the Matter of Arbitration between

Gregory L. & Maria S. Brotherton

Claimant

and

F.D. Roberts Securities, Inc.  
John Conte

Respondent(s)

Decision  
#88-00056

Factual Statement. Claimants maintained an account with Respondent, F.D. Roberts Securities, Inc. On July 22, 1987, Claimants sent, by certified mail, return receipt requested, a letter requesting the sale of 1,200 shares of Medi-Quip and 1,000 shares of Micro Cellular. The letter was received on July 24, 1987. Respondents account executive, John Conte, alleges that upon receipt of Claimants' letter, he spoke to Claimants and they agreed to withdraw the request for sale. The securities were ultimately sold on September 10, 1987.

The securities in question, were "penny stocks" without widespread quotations. Claimants have presented quotations from the Penny Stock News which shows that as of July 30, 1987, the bid price for Medi-Quip was \$.51 and Micro Cellular \$.81. Penny Stock News attributes these quotes to F.D. Roberts Securities, Inc.. Respondent has presented no evidence that it did not originate these quotes or that they were inaccurate.

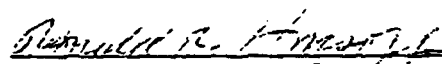
On September 10, 1987, Claimants 1,200 shares of Medi-Quip were sold for \$.20 and the 1,000 shares of Micro Cellular for \$.15. Claimants allege they should have received \$.51 and \$.81 per share respectfully, the market price on the date this sale order was received. Claimants made demand of Respondent for this amount which has been refused. On January 5, 1988, Claimants filed this proceeding with the National Association of Securities Dealers, Inc. Respondent filed an answer in a timely fashion. Pursuant to its arbitration procedures, the Association appointed Ronald R. Hrusoff, Esq. as sole arbitrator.

Opinion. The evidence is disputed whether Claimant agreed to withdraw his written instruction to sell. What is clear is that Respondent received written instructions by certified mail on July 27, 1987 that it was to sell the securities. Respondent should have immediately done so. It is not for Respondent to call its customers and attempt to dissuade them even though Respondent believes its in the customers best interest not to sell at the present time. Further, if

Claimants did agree to withdraw their sell order, Respondent should have confirmed the amended instruction in writing. As such, I have no alternative but to accept Claimants version of the facts.

The submitted quotations show that on July 30, 1987, the date nearest to the required date of sale, the price of Medi-Quip was \$.51 and Micro Cellular \$.81. As Respondent provided these quotes to the Penny Stock News and have not submitted contrary quotes, it must be presumed that these were market quotes on July 27, 1987, the date the shares should have been sold.

Order. It is hereby ordered that Respondent pay to Claimants the difference between \$.51 and \$.20 per share for the 1,200 shares of Medi-Quip (\$372.00) and the difference between \$.81 and \$.15 per share for the 1,000 shares of Micro Cellular (\$660.00) plus interest at 10 percent per annum from August 1, 1987, and Claimants filing fee.

  
Ronald R. Hrusoff  
Arbitrator

88-00056

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Gregory L. & Maria S. Brocherton

Claimant

and

F.D. Roberts Securities, Inc.  
John Conte

Respondent(s)

OATH OF  
ARBITRATOR

Having been selected as an arbitrator to consider the matter in controversy between the above-captioned parties. I solemnly swear and affirm that:

- I am not an employer of, employed by or related by blood or marriage to any of the parties or witnesses whose names have been disclosed to me, and
- I have no interest directly or indirectly in this proceeding, and
- I know of no existing or past financial, business, professional family or social relationship which would impair me from performing my duties, and
- I shall consider and decide the controversy faithfully and fairly and render a just award to the best of my understanding.

Ronald R. Hrusoff  
Ronald R. Hrusoff Esq.

STATE OF California  
COUNTY OF San Diego

On this 1st day of May 1989, before me personally appeared Ronald R. Hrusoff Esq. to me known and known before me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

Elizabeth A. Frosio

