

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

National Securities Corp.

Claimant

vs.

J. Bradford Shiley

Respondent

AWARD

CASE NO. 88-00427

SUMMARY OF ISSUES

The claim was filed February 9, 1988.

Claimant alleged that Respondent requested that Claimant sell 1,350 shares of Del-Rio Resources and Respondent delivered a stock certificate to Claimant. Claimant alleged that it mistakenly sold shares of Del-Rio Resources, Ltd., a Canadian corporation, and sent Respondent a check for \$5,047.50. Claimant alleged that after the sale it discovered that Respondent owned stock in Del-Rio Resources, Inc., a Utah corporation, not in the Canadian corporation, and that Claimant purchased the Canadian stock. Claimant alleged that it informed Respondent that the certificate that Respondent had tendered represented shares in a worthless Utah corporation and requested that Respondent return the money which was erroneously sent to him. Respondent alleged that there was a contract between Claimant and Respondent, that Claimant made a unilateral mistake of fact, and that Respondent owes nothing, that Claimant had been furnished with an accurate identification of Respondent's stock, that Respondent relied on the expertise of Claimant and Claimant is estopped to deny the value of the shares and to claim or collect damages from Respondent, that Claimant was grossly negligent, and that Claimant is a market maker in the securities, bought the securities in the open market and is not entitled to rescind the transaction for the purchase.

DAMAGES AND RELIEF REQUESTED

Claimant requested 1) restitution of the \$5,000.00 of the \$5,047.40 NSC erroneously paid to Respondent or, in the alternative, for damages in the amount of \$5,000.00; 2) \$5,000.00 in damages for violation of RCW 21.20.010, including interest at the rate of 8%; 3) reasonable attorneys' fees and other costs. Respondent requested that the claim be dismissed and that Respondent be awarded reasonable attorneys' fees.

DAMAGES AND RELIEF AWARDED

On July 13, 1989, in one session in Portland, Oregon, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant on January 25, 1988 and by Respondent on March 22, 1988. The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has

determined in full and final resolution of the issues submitted for determination as follows:

1. Respondent is liable for and shall pay to Claimant the sum of Five Thousand Seven Hundred Forty-seven Dollars and Fifty Cents (\$5,747.50), inclusive of interest.
2. Claimant is directed to deliver to Respondent a stock certificate for 1,350 shares of Del-Rio Resources.
3. The parties shall each bear their respective costs including attorneys' fees.
4. Pursuant to Section 43 of the National Association of Securities Dealers, Inc. (NASD) Code of Arbitration Procedure, the NASD shall retain the \$100.00 filing fee previously deposited by the Claimant. Respondent is directed to reimburse Claimant said \$100.00 filing fee.

OTHER ISSUES

None Applicable.

ARBITRATORS CONCURRING

DATE SERVED: 09/27/89

Michael J. Esler



Gary K. Sweitzer

James A. Moore