

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Oberweis Securities, Inc.

88-01423

Name of Respondent(s)

Thomas P. DeVries
Marguerite DeVries

REPRESENTATION

For Claimant: N. Neville Reed, Esq., of Mayer, Brown & Platt, Chicago, Illinois.

For Respondent: none.

CASE INFORMATION

Statement of Claim filed: May 5, 1988.

Claimant's Submission Agreement signed on: February 2, 1988, by James A. Arpaia, Senior Vice President, Oberweis Securities, Inc.

Statement of Answer was never filed by Respondents, Thomas P. DeVries and Marguerite P. DeVries.

Respondents, Thomas P. DeVries and Marguerite P. DeVries, have failed to file a Submission Agreement.

HEARING INFORMATION

Hearing Date(s)/Sessions: A hearing was held on the 9th day of July, 1991 which lasted for one session.

Hearing Location: The hearing was held at the Chicago offices of the National Association of Securities Dealers located at 10 S. LaSalle, 20th floor, Chicago, Illinois.

CASE SUMMARY

Claimant, Oberweis Securities, Inc. ("Oberweis") alleged conversion and breach of contract by the respondents Thomas P. DeVries and Marguerite DeVries ("Respondent") based on the following facts: Oberweis was the introducing broker for Swiss American Securities, Inc., in which Respondents maintained an open account as joint tenants. Respondents, signed a cash account agreement with Swiss American Securities, Inc., and Respondent, Thomas P. DeVries, signed another cash account agreement with Oberweis.

In November of 1983, Respondents purchased 150 shares of stock through their account with Swiss American Securities. That same month, two certificates were mailed to respondents representing 100 and 50 shares respectively.

In January of 1984, respondents sold all of the aforementioned shares. Pursuant to the cash agreement, the respondents were to have presented their certificates, within a short period of time thereafter, to Swiss American Securities, Inc. to cover the sale. Respondents were paid the proceeds of the sale (\$10,714.39), and the Oberweis became the beneficial owner of the stock.

Thereafter, Swiss American Securities, Inc. requested the respondents return the certificates. The respondents claimed that the certificates had never been received, and respondents further failed to return an "Affidavit of Non-Receipt" sent to them by Swiss American Securities, Inc., and required by their indemnity carrier to be able to reimburse Swiss American Securities, Inc..

In July of 1984, Oberweis became a self-clearing broker, and set aside this matter until January of 1985. From January of 1985 until March of 1986 Oberweis made numerous attempts to contact respondents. In March of 1986, Oberweis was forced to buy-in the 150 shares of stock at the then prevailing price of \$170.375 per share, or \$25,554.35 after fees. As of May of 1986, Respondents still had not surrendered the certificates to Oberweis.

PROCEDURAL ISSUES

The case was originally set for hearing on December 15, 1989 and again on the 2nd day of May, 1991. Due to service problems, the case was rescheduled for July 9, 1991. Special service was had upon the respondents prior to June of 1991.

On July 9, 1991, a hearing was held and the arbitrator determined that Respondents received notice of the claim and hearing date pursuant to sections 25 and 26, and 29 of the NASD Code of Arbitration Procedure ("Code"). The arbitrator determined to proceed in the absence of Respondents pursuant to Section 29 of the NASD Code. Respondents failed to appear personally, or by representative. A default judgement was entered against the respondents.

RELIEF REQUESTED

Claimant requested: the sum of \$25,554.35 for conversion and breach of contract, and \$75,000 for punitive damages, interest and such other relief as the arbitrator deems just and proper.

AWARD

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

1. For the claim of conversion and breach of contract, the Respondents are jointly and severally liable, and shall pay to claimant the sum of \$10,180.65.

2. Simple interest is awarded on this sum at 6% annum is awarded on this sum from and inclusive of January 25, 1984 to and inclusive of the date the award is paid;

3. Claimant's request for punitive damages is hereby expressly denied and is dismissed in its entirety;

FORUM FEES

Pursuant to Section 44c of the Code of Arbitration Procedure, the following Forum Fee(s) are assessed.

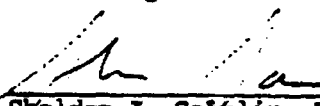
A filing fee of \$500, and a hearing fee of \$750 have been assessed. Claimant has paid the filing fee of \$500, leaving a balance of \$750 due as of the date of the hearing. Oberweis shall pay the NASD the sum of \$750.00 as forum fees.

Forum fees Assessed Against: Respondents, Marguerite and Thomas DeVries shall reimburse Oberweis directly in the amount of \$1,250.00.

ARBITRATION PANEL

Concurring Arbitrators' Signatures

Dated: July 9, 1991


Sheldon I. Saftlin, Esq.
Presiding Chair
Public Arbitrator

Date Served: 7-10-91