

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Arbitration Matter Between

DAVID A. DENT

Claimant

v.

SUMMIT INVESTMENT CORPORATION AND
GERALD HLADKY

Respondents

CASE NO. 88-02076

CASE SUMMARY

The Claimant alleged that he placed an order to purchase stock on margin. The Claimant later discovered that the stock was not marginable and that the position had been liquidated pursuant to Regulation T. Additional orders to purchase were placed, written confirmations were not received but allegedly the broker orally confirmed the purchases. The stock was not purchased for the account. Shortly after the initial buy orders were placed, the stock split.

The Respondent Cross-Claimant, Summit Investment Corporation, replied that the Claimant was made aware of the fact that the stock was not marginable and that the subsequent purchase order was not executed because the limit order, placed by the Claimant, was not filled. The Respondent asserted various equitable defenses and asserted a cross-claim against the account executive, Gerald Hladky, on the basis that Hladky's actions were beyond the scope of his employment. Respondent Hladky did not file an Answer.

RELIEF REQUESTED

The Claimant requested actual damages in the amount of \$27,250.00 and pre-judgment interest at 8% in the amount of \$2,006.79. Respondent Summit requested dismissal of the claim or, in the alternative, indemnification or contribution against Respondent Hladky and costs.

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AWARD

On May 19, 1989 in Minneapolis, Minnesota, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on June 21, 1988 by the Claimant David A. Dent, on July 25, 1988 by G. James Spinner on behalf of Respondent Summit Investment Corporation. Mr. Hladky did not file an answer, nor sign a submission agreement, however, Respondent Hladky did receive notice by certified mail of this action against him. Service was affected by the NASD and the certified receipt was returned, signed by Mr. Hladky and dated July 12, 1988. Additionally, the claimant affected personal service upon Mr. Hladky on May 3, 1989. Respondent Hladky did appear at the hearing on May 19, 1989. The Claimant asserted a 25(2)(ii) Motion and sought to have the arbitrators prohibit Mr. Hladky from asserting any defense or evidence during the hearing. The panel denied the Motion and allowed Mr. Hladky to set forth his defenses and present evidence at the hearing. Therefore, Mr. Hladky is bound by the Panel's decision.

The arbitration panel, having considered the pleadings, the testimony and the evidence presented at the hearing, has decided in full and final resolution of the issues submitted for determination as follows:

1. Based upon the Doctrine of Respondent Superior, the Respondents Summit Investment Corp. and Gerald Hladky shall be joint and severally liable to the Claimant, David A. Dent and shall pay damages in the amount of \$27,250.00;

2. Interest shall not be assessed;

3. Each party shall bear their own costs incurred in connection with this proceeding;

4. Pursuant to Section 43(b) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain as forum fees, the \$400.00 filing fee previously deposited with the NASD by the Claimant. Additionally, in accordance with Section 43(b) of the NASD Code of Arbitration Procedure, Respondent, Hladky shall pay an additional \$400.00 in forum fees. The fees shall be paid directly to the NASD.

By the Panel

/S/ Cassandra Mihalchick, Esq.

/S/ Thomas Donald Redmond

/S/ John Robert Kelly