

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

-----	
In the Matter of the Arbitration Between	)
	)
Marvin Maltz,	)
	)
Claimant	)
	)
vs.	)
	)
	)
Barry Leibowitz and	)
Greentree Securities, Inc.,	)
	)
Respondents	)
-----	

Case #88-02837

Award

CASE SUMMARY

Claimant alleges that when he bought 250,000 units of Great Colorado Silver Development Co. at \$0.02, the bid was \$0.02 and the ask was \$0.04. Claimant further alleges that Barry Leibowitz, the registered representative with Brooks Weinger Robbins & Leeds, Inc. (BWRL), told him that he could get him \$0.025 per unit but that if he held on to the securities for three months, a higher price may be available. Claimant alleges that when the price did not increase, he gave Leibowitz an order to sell the securities and Leibowitz failed to execute the order and that the securities are now worthless. Claimant also alleges that Greentree Securities Co. (Greentree) bought BWRL and that Greentree is now liable to him for the damages he sustained.

Respondent, Greentree, admits that Claimant purchased the securities and that Leibowitz advised Claimant to hold on to the securities in the hopes of getting a higher price but denies the allegations of misrepresentation about the price of the securities. Greentree further denies the allegation that it bought BWRL and alleges that it bought BWRL's assets, including the rights to its customer accounts but did not assume any liability for customer complaints. Greentree also asserts four Affirmative Defenses.

Respondent, Leibowitz, admits that he told Claimant that on some occasion he was able to sell the securities at \$0.025 but denies that he guaranteed Claimant that price. Leibowitz alleges that Claimant was aware that he was seeking a sell price above the bid.

RELIEF REQUESTED

Claimant seeks an award of \$6,125.00 interest, costs and \$1,000.00 for the anguish and problems he has endured. Respondent, Greentree, requests that the panel dismiss the claim in its entirety and asses costs to Claimant. Respondent, Leibowitz, requests that the panel dismiss the claim.

AWARD

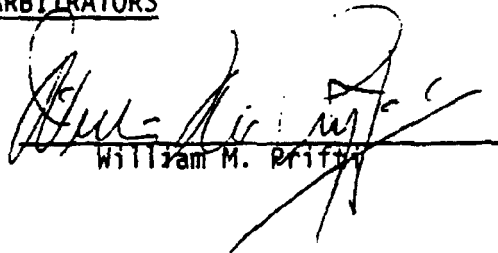
On September 7, 1989, the undersigned arbitrator heard the controversy between the parties as set forth in a submission to arbitration signed by Claimant, Marvin Maltz, on September 2, 1988 and by Respondents, Barry Leibowitz and Greentree Securities, Inc., on November 10, 1988 and December 2, 1988, respectively. The hearing was held in Boston, Massachusetts and consisted of one session. 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. All claims asserted by the Claimant against the Respondents are hereby dismissed in their entirety.
2. The parties shall each bear their respective costs including attorneys' fees.
3. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$200.00 filing fee previously deposited by the Claimant.

OTHER ISSUES

Respondent, Greentree Securities, Inc., did not appear at the hearing and based upon the evidence submitted in Arbitrators Exhibit No. 1 regarding hearing notices to Greentree Securities, Inc., and pursuant to Section 29 of the Code of Arbitration Procedures the arbitrator finds that proper notice exists and proceeded with the hearing in its absence.

CONCURRING ARBITRATORS

  
William M. Priddy

Dated: October 11, 1989