

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between)
CHARLES A. ROTH)
)
) Claimant)
) and)
) JOSEPH MIYAMOTO, JR.)
) EVAN RYAN SECURITIES, INC. AND)
) WEDBUSH SECURITIES)
) Respondents)

CASE NO. 88-02873

CASE SUMMARY

Charles A. Roth ("Claimant") alleged that Joseph Miyamoto, Jr. and Evan Ryan Securities, Inc. ("Respondents") improperly liquidated Mr. Roth's interest in 7,500 shares of Associated Companies by failing to obtain the proper market price.

Respondent Evan Ryan denied the claim stating that the liquidation was under the direction of the IRS and implemented by Wedbush Securities, Inc. Evan Ryan alleged the following affirmative defenses: 1) set-off, 2) resjudicata, 3) release, 4) payment, 5) assumption of the risk, 6) estoppel, 7) failure to state a claim or mitigate damages, and 8) contributory negligence.

Respondent Miyamoto denied the claim and alleged that he did not handle the details of the sell and that the Claimant received the proper market price. Miyamoto counterclaimed for fees allegedly owing from a private securities transaction concluded by the Claimant.

Roth denied the counterclaim and brought an additional claim against Miyamoto for failure to perform on a lease.

RELIEF REQUESTED

Claimant requested damages of Ten Thousand Dollars and 00/100 cents (\$10,000.00) for the trade and Fifty Eight Thousand Six Hundred and Fifty Dollars and 00/100 cents (\$58,650.00) for the lease. Evan Ryan requested the claims be dismissed.

Respondent Miyamoto requested that the claim of the Claimant be denied, and that he be awarded Twenty-Five Thousand Dollars and 00/100 cents (\$25,000.00) on his counterclaim.

AWARD

On September 13, 1988, the NASD received the claim of the Claimant. On January 10, 1990 the undersigned arbitrators heard the controversy between the parties as set forth in the submissions to arbitration signed by Claimant on August 25, 1988, on January 23, 1989 by James E. Guthrie on behalf of Respondent Evan Ryan Securities, Inc., and by Joseph Miyamoto on January 23, 1989. The hearing was held in one session in Denver, Colorado.

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. All claims and counterclaims between the Claimants and Respondents are dismissed;
2. The parties shall bear their own costs including attorneys' fees.
3. Pursuant to Section 43(b) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain as forum fees, the \$200.00 filing fee previously deposited with the NASD by the Claimants.

By the panel

Dated: 18 January 1990

/S/

Jordan Mandel
Jordan Mandel, Esq.
Presiding Chair

Dated: _____

/S/

Dr. Laura Joplin, CFP

Dated: _____

/S/

Gary M. Biesiadecki

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By the panel

Dated: _____

/S/

Jordon Mandel, Esq.
Presiding Chair

Dated: _____

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Dr. Laura Joplin, CFP

Dated: _____

/S/

Gary M. Biesiadecki

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By the panel

Dated: _____ /S/ _____
Jordon Mandel, Esq.
Presiding Chair

Dated: _____ /S/ _____
Dr. Laura Joplin, CFP

Dated: 1/22/90 /S/ Gary M. Biesiadecki
Gary M. Biesiadecki