

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between :  
Israel Shurkin :  
Claimant : AWARD  
vs. : CASE #88-03508  
First Albany Corp. and :  
Anthony Forgione :  
Respondents :  
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CASE SUMMARY

Claimant Israel Shurkin alleged the Respondents unlawfully closed his account without his authorization. Claimant further alleged Respondents charged him a commission in excess of what he agreed would be charged with Respondent Anthony Forgione. Respondent First Albany Corp. maintained that the closing of Claimant's account was in accordance with sound business practices and that Claimant did not suffer any losses as a result of the closing of the positions. Respondent First Albany Corp. admitted that the commission charges were to be Thirty Dollars(\$30.00) per trade for the first four trades entered into by the Claimant. Respondent Anthony Forgione maintained that Claimant had a debit balance in his account and failed to forward the funds necessary to eliminate the debit balance. Respondent Anthony Forgione further maintained that Claimant was entitled to a discount on the commission and should be credited the sum of \$285.32

RELIEF REQUESTED

Claimant requested damages of \$4,115.29. Respondent First Albany Corp. requested dismissal of claim. Respondent Anthony Forgione requested dismissal of claim.

AWARD

On August 28, 1989 said date representing one(1) hearing session the undersigned arbitrator heard the controversy between the parties at the offices of the National Association of Securities Dealers, Inc. located in New York City, NY as set forth in submissions to arbitration signed by Claimant, Israel Shurkin on November 28, 1988 and by Respondent, First Albany Corporation on January 27, 1989. The Statement of Claim was filed with the National Association of Securities Dealers, Inc. on November 10, 1988. The arbitrator, 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. In accordance with Section 13 of the Code of Arbitration Procedure the Respondent Anthony Forgione was served with the Statement of Claim and given an opportunity to respond and Respondent Anthony Forgione did respond.
2. In accordance with Section 21 and Section 26 of the Code of Arbitration Procedure, Respondent Anthony Forgione was given due notice of the hearing procedure by regular and certified mail and failed to appear.
3. The Respondent Anthony Forgione was informed that an award could be rendered against him despite his failure to appear at the hearing and Respondent acknowledged that fact.
4. In accordance with Section 29 of the Code of Arbitration Procedure, the arbitrator determined in light of the foregoing information to proceed with the hearing as scheduled.
5. The Respondent First Albany Corporation be and hereby is liable and shall pay to the Claimant Israel Shurkin the sum of Four Thousand One Hundred Fifteen Dollars and Twenty Nine Cents(\$4,115.29).
6. The parties shall each bear their respective costs including attorney's fees
7. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$100.00 filing fee previously deposited by the Claimant.

CONCURRING ARBITRATOR

*Arnold O. Flicker*

Arnold O. Flicker

Dated: August 31st, 1989