

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Richard and Joanne Welton Claimants

vs.

Emmett A. Larkin Co., Inc.

and Mickey Reynolds

Respondents

AWARD

CASE NO. 89-01942

SUMMARY OF ISSUES

This case was filed with the National Association of Securities Dealers, Inc. ("NASD") on July 6, 1989. In March 1988 Claimants opened an account with Respondents in order to sell 400 shares of Shareholders Capital Corporation for which they held three certificates issued in 1970 and 1971. It was determined that Shareholders had changed names to Angeles Corporation and the stock was received into the account and sold resulting in net proceeds to the Claimants of \$2,467.91. Approximately five weeks after the settlement date, Respondents were advised that the transfer agent had busted the trade and confiscated the shares as worthless due to two stock splits in 1976 and 1979 and a cash-in-lieu settlement. Respondents notified Claimants that the stock previously tendered was worthless and instructed them to return the proceeds of the sale to Respondents.

Claimants alleged that Respondents assumed the risk that the stock was without value when it was offered for sale, and that they had relied upon the expertise of Respondents to advise them in the transaction.

Respondents maintained that the stock was taken in good faith and that it is not Respondents responsibility to guarantee the worth or worthlessness of a security. Respondents further maintained that as the registered holders, the Claimants would have received all corporate communications issued by Shareholders Capital/Angeles Corporation and received and cashed a cash-in-lieu check issued as the final payment on their holdings.

DAMAGES AND RELIEF REQUESTED

Claimants requested an award in arbitration finding them not liable for the sums paid to Claimants for the stock purchased and dismissal of the counterclaim asserted.

Respondents requested dismissal of the claim. In addition, Respondent Mickie Reynolds requested damages of \$2,467.91 plus attorney's fees of \$2,088.50, and Respondent Emmett A. Larkin Co., Inc. requested in addition to a return of the unjust enrichment Claimants received.

DAMAGES AND RELIEF AWARDED

On August 3, 1990, the undersigned arbitrator heard the controversy between the parties as set forth in submissions to arbitration signed by Claimants on June 29, 1989 and by Respondents Emmett A. Larkin Co., Inc. on August 24, 1989 and Mickey Reynolds on August 24, 1989. The hearing was conducted in San Francisco, California and lasted one (1) session. 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. All claims asserted by Claimants are dismissed.
2. Claimants are hereby liable for and shall pay the Respondent Mickie Reynolds the sum of Three Thousand Twenty Three Dollars and Eighteen Cents (\$3,023.18) calculated as follows:
 - a. actual damages of \$2,467.91; and
 - b. interest from May 1988 to August 1990 of \$555.27.
3. Claimants are further assessed the sum of \$500 representing reasonable attorneys fees to be paid to Respondent Mickie Reynolds.
4. The parties shall each bear their respective costs.
5. In accordance with Section 43 of the NASD Code of Arbitration Procedure, the NASD shall retain the \$15.00 filing fee previously deposited by the Claimant.

OTHER ISSUES

None.

ARBITRATOR CONCURRING

AWARD SERVED: 09/25/90


Helen M. Marinak