

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between)	
Kevin M. McDonagh)	
)	
Claimant(s))	
)	
and)	CASE NO. 89-02185
)	
Allied Capital Group)	
Pamela Rybacki)	
)	
Respondent(s))	
)	

CASE SUMMARY

In a claim filed with the NASD on or about August 3, 1989, Claimant Kevin M. McDonagh ("Claimant") alleged that Respondents Allied Capital Group, Inc. and Pamela Rybacki withheld proceeds of a sale of 50 shares of A.D.P. stock. Claimant further alleged that he and Ms. Rybacki discussed the purchase of stock of Taste It Presents, Inc. which he later informed Ms. Rybacki that he did not wish to purchase the stock. Claimant alleged that Ms. Rybacki informed him that there would be no problem and that he would receive the proceeds of the sale of the A.D.P. stock.

In its answer and cross-claim filed with the NASD on or about October 23, 1989, Respondent Allied Capital Group, Inc., stated that Claimant placed an order to purchase the shares of Taste It Presents, Inc.; that Claimant's check was dishonored for non-sufficient funds; that the purchase was sold out by the firm at a loss of \$3,500.00; that Allied covered some of that loss with the proceeds from Claimant's sale of A.D.P. stock as an offset.

RELIEF REQUESTED

Claimant requested an award in the amount of \$2,518.75 plus interest.

Respondent Allied Capital Group, Inc. requested that the Statement of Claim be denied and dismissed; that it be awarded its attorney's fees and costs; and that in the alternative that Respondent Pamela Rybacki be held liable for any amount that Claimant recovers from Allied Capital Group, Inc. in addition to attorney's fees and costs.

AWARD

On Friday, May 4, 1990 in Chicago, Illinois during a hearing lasting one session, the undersigned arbitrator heard the controversy between the parties as set forth in submissions to arbitration signed on June 23, 1989 by Claimant Kevin M. McDonagh, on October 20, 1989 by Peter Marcaldi on behalf of Respondent Allied Capital Group, Inc.

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. Respondent Allied Capital Group, Inc. shall be and hereby is liable for and shall pay to Claimant Kevin M. McDonagh the sum of Two Thousand Four Hundred Twenty Eight Dollars and Seventy-five Cents (\$2,428.75);

2. Interest on the above stated sum at the rate of 6% per annum, shall be paid from the inclusive of September 14, 1987 to and inclusive of May 4, 1990;

3. The cross-claim is hereby dismissed and denied in its entirety;

4. Each party shall bear its own costs and expenses incurred in this matter not specifically enumerated herein; and,

5. Pursuant to Section 43(b) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall refund as forum fees, the \$25.00 of the \$100.00 filing fee previously deposited with the NASD by the Claimant. The National Association of Securities Dealers, Inc. shall retain as forum fees, the \$400.00 filing fee previously deposited with the NASD by Respondent/Cross Claimant Allied Capital Group, Inc.

By the Panel

Dated: May 4, 1990

/S/ Gordon B. Shneider, Esq.