

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

David M. Albert

89-03273

Name of Respondent(s)

Xcel Securities, Inc. and  
Karen Hall

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CASE SUMMARY

In a claim filed with the NASD on or about November 21, 1989, David M. Albert ("Claimant") alleged that X-Cel Securities, Inc. ("X-Cel") and Karen Hall ("Hall") (collectively as "Respondents") abandoned his account. Claimant specifically alleged that the abandonment caused him to panic and sell his stock in U. S. Contrac prematurely.

In its Answer and Cross-Claim filed with the NASD on or about February 5, 1990, Respondent X-Cel stated that Claimant was contacted regarding selling his position in U. S. Contrac. At that time, Claimant decided not to sell and sold his position sometime later. Respondent X-Cel asserted the following affirmative defenses: that the market for U. S. Contrac is limited and subject to significant fluctuation; any losses incurred by Claimant were the direct result of his decisions concerning the sale; any losses were a result of Claimant's negligence and failure to mitigate. In its Cross-Claim against Respondent Hall, X-Cel alleged that pursuant to its contract with Hall it is entitled to reimbursement of any award and costs.

In her Answer to the Statement of Claim and Answer to Cross-Claim filed with the NASD on or about January 29, 1990, Respondent Hall stated that she did not abandon the account of Claimant, that she went on vacation and the account was handled by other employees of X-Cel and denied any liability.



### RELIEF REQUESTED

Claimant requested an award in the amount of \$2,320.00.

Respondent X-Cel requested that the claim be dismissed and in its cross-claim against Hall that it be reimbursed its costs and expenses.

Respondent Hall requested that the claims against her be dismissed.

### AWARD

On Friday, August 31, 1990 in Denver, Colorado during a hearing lasting a total of one (1) session, the undersigned arbitrator heard the controversy between the parties as set forth in submissions to arbitration signed on November 15, 1989 by Claimant David M. Albert on February 1, 1990 by Gary Barton on behalf of Respondent X-Cel Securities, Inc. Respondent Karen Hall did not submit a properly executed submission to arbitration but is required to submit to arbitration pursuant to Sections 8 and 12 of the NASD Code of Arbitration Procedure and having answered the claims against her, appearing at the hearing and testifying is bound by the panel's determination on all issues submitted.

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. Respondents X-Cel Securities, Inc. and Karen Hall shall be and hereby are jointly and severally liable for and shall pay to Claimant Davis M. Albert the sum of Two Thousand Three Hundred and Twenty Dollars (\$2,320.00);

2. Respondent Karen Hall shall be and hereby is liable for and shall pay to Cross Claim Claimant X-Cel Securities, Inc. the sum of Six Hundred Four Dollars and Twenty Five Cents (\$604.25);

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

4. No interest is awarded on the above stated sums; and

5. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the filing fee in the amount of \$25.00 previously deposited with the NASD by the Claimant.

August 31, 1990

s/ Thaddeus J. Tecza  
Thaddeus J. Tecza, Ph.D