

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

the Matter of the Arbitration Between
Patrick Merlehan

Claimant

vs.

Robyns Capital Corporation
and Castleton Rhodes, Inc.

Respondents

AWARD

Case #90-00679

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on March 6, 1990 Claimant Patrick Merlehan alleged that he sold 250,000 shares of stock for \$43,000.00 and a confirmation was issued and a month later the sale order was cancelled with no reason given. The Claimant is bringing this action against Robyns Capital Corporation and Castleton Rhodes, Inc. as a successor in interest.

The Respondent Castleton Rhodes, Inc. maintained that the transactions took place before the account was transferred to Castleton Rhodes, Inc. and that it is not a successor in interest to Robyns Capital Corporation and further that the only connection was that Claimant's registered representative transferred the Claimant's account from Robyns Capital Corporation to Castleton Rhodes, Inc.

RELIEF REQUESTED

Claimant requested damages of \$60,209.60 plus legal and administrative costs of \$1800.00.

Respondent Castleton Rhodes, Inc. requested dismissal of claim.

AWARD

On October 2, 1990 the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant, Patrick Merlehan on March 2, 1990 and by Respondent, Castleton Rhodes, Inc. on April 27, 1990 and not signed by Respondent Robyns Capital Corporation as required pursuant to Section 8 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure. The hearing was conducted at the offices of the National Association of Securities Dealers, Inc. located in New York City, NY and consisted of two (2) hearing sessions.

The arbitration panel, 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 25 of the Code of Arbitration Procedure, the Respondent Robyns Capital Corporation was served with the Statement of Claim and given an opportunity to respond;

2. In accordance with Section 21 and Section 26 of the Code of Arbitration Procedure, the Respondent Robyns Capital Corporation was given due notice of the hearing procedure by regular and certified mail and failed to appear at the hearing;

3. In accordance with Section 29 of the Code of Arbitration Procedure, the arbitration panel determined in light of the foregoing information to proceed with the hearing as scheduled;

4. The Respondent Robyns Capital Corporation be and hereby is liable and shall pay to the Claimant Patrick Merlehan the sum of \$45,902.50 inclusive of interest;

5. The Claimant's claim against Respondent Castleton Rhodes, Inc. is dismissed in its entirety.

6. The parties shall each bear their respective costs including attorneys' fees;

7. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$400.00 filing fee previously deposited by the Claimant. In addition the Respondent Robyns Capital Corporation be and hereby is liable and shall pay to the National Association of Securities Dealers, Inc. the sum of \$400.00 to represent forum fees.

ARBITRATORS CONCURRING

/s/
Cynthia H. Plishtin

Dated: November 13, 1990

STATE OF
COUNTY OF

S.S.:

On this 26th day of October 1990, before me personally appeared Joseph E. DaGrosa to me known and known before me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.


Jill A. Will

JILL A. WILL
NOTARY PUBLIC, State of New York
No. 4878615
Qualified in Nassau County
Commission Expires Dec. 15, 1991

STATE OF NEW YORK
COUNTY OF NEW YORK

S.S.:

On this 29th day of October, 1990, before me personally appeared **William A. De Lorenzo** to me known and known before me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.


SHIRLEY CACCIOPOLI
NOTARY PUBLIC, State of New York
No. 03-5565005
Qualified in Bronx County
Commission Expires May 31, 1992

~~William A. De Lorenzo~~

S.S. :

On this 2 day of November 1990, before me personally appeared Cynthia H. Plishtin to me known and known before me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that she executed the same.

A. Joanne Kennedy

A. JOANNE KENNEDY
NOTARY PUBLIC IN NEW JERSEY
 My Comm. Expires 03/15/2009 15, 1995