

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

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In the Matter of the Arbitration Between :

David W. Pitts :

Claimant(s) :

CASE #90-00699

AWARD

vs. :

Securities Settlement Corporation :  
Allegiance Securities, Inc. and :  
Duane LeGate :

Respondent(s) :  
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CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on March 8, 1990, Claimant David W. Pitts who appeared Pro Se, alleged that Respondent Duane LeGate an account executive at Greentree Securities now known as Allegiance Securities, Inc., and Securities Settlement Corporation failed to correct an error in the Claimant's account in which 100 units of Automobile Protection Corp. were purchased on behalf of the Claimant, instead of 400 shares of Private Pay Phones Inc. The Claimant further alleged that although many debits and credits took place in an attempt to correct the problem, the stock he requested was not placed in his account.

Respondents, Allegiance Securities, Inc. and Duane LeGate failed to file an Answer to the Statement of Claim.

Respondent Securities Settlement Corp., through their Senior Vice President, Bernard L. Finger, maintained that they merely acted as a clearing broker for Greentree Securities and Allegiance Securities, and that although the Claimant contends to have notified them of the error, Securities Settlement Corp., did not receive notification, and therefore, liquidated the account. Respondent, Securities Settlement Corp. further maintained that there is no basis for the Claimant to allege their effecting any unauthorized transactions, therefore there is no basis for seeking recovery.

Respondents, Securities Settlement Corp., also filed a Motion to Dismiss pursuant to Section 12(b) and Section 16 of the

National Association of Securities Dealers, Inc. Code of Arbitration Procedure.

RELIEF REQUESTED

Claimant, David W. Pitts requested \$27.50 in actual damages and the return of 400 shares of the common stock of Private Pay Phones Inc.

Respondent, Securities Settlement Corp. requested the claims of the Claimant be dismissed.

Respondents, Allegiance Securities, Inc. and Duan LeGate did not file an Answer to the Statement of Claim.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration, Michael A. Caldwell, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on February 19, 1990 and by the Respondent Securities Settlement Corp. on August 29, 1990 and not signed by Respondents, Allegiance Securities, Inc. and Duane LeGate as required by Sections 12 and 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure.

1. In accordance with Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure the Respondent Allegiance Securities, Inc. was served by certified mail and given an opportunity to respond, which it failed to do. Service was effected as evidenced by the return of the signed return receipt card. Although reasonable attempts were made, service was not effected on Respondent Duane LeGate.
2. Pursuant to the By-Laws of the National Association of Securities Dealers, Inc. the arbitrator determined that Respondent Allegiance Securities, Inc. was required to submit to this arbitration proceeding and is, therefore, bound by the arbitrator's ruling and determination.

And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

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1. Respondent Securities Settlement Corp.'s Motion to Dismiss is denied.
2. Respondents, Allegiance Securities and Securities Settlement Corp. are jointly and severally liable and shall pay to Claimant, David W. Pitts \$27.50 in actual damages, and shall provide him with 400 shares (common) of Private Pay Phones Inc.
3. The claims of the Claimant against Respondent Duane LeGate are dismissed without prejudice.
4. The parties shall bear their respective costs.
5. The \$15.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the National Association of Securities Dealers, Inc.

**AFFIRMATION**

I, MICHAEL A. CALDWELL, ESQ., do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.

  
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Signature of Arbitrator

DATE OF DECISION: 2/10/92

DATED BY THE NASD, INC.: February 24, 1992