

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

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In the Matter of the Arbitration Between :  
Asher A. & Lorell F. Blass :  
Claimant : CASE #90-00778  
vs. : AWARD  
Burke, Christensen & Lewis Securities, Inc. :  
Respondent :  
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CASE SUMMARY

Asher A. & Lorell F. Blass, in a claim filed with the National Association of Securities Dealers, Inc. on March 13, 1990, alleged that Respondent Burke, Christensen & Lewis Securities, Inc., did not make reasonable attempts to contact them when Claimant's check, tendered in payment of a stock purchase, was returned for insufficient funds. Claimants further state that the stocks in question were then sold by Respondent at a profit of Four Hundred Seventy-Five Dollars and No Cents (\$475.00).

Respondent, Burke, Christensen & Lewis Securities, Inc., maintained that they fulfilled every condition of the "Presumption of Communication" agreement in trying to notify Claimants of the insufficient funds. Respondent states that Claimants are not entitled to incidental appreciation in a security for which payment was not properly received.

Claimants reply that Respondent did not attempt in good faith to contact them and that Respondents are inconsistent in describing the alleged attempts. Claimants object to the retention of their check for three weeks after liquidating their position and amends the claim to include the costs of bringing this action.

RELIEF REQUESTED

Claimants request actual damages, treble damages and costs totalling Four Thousand Seven Hundred Eighty-Five Dollars and No Cents (\$4785.00).

Respondents brought a counterclaim against the Claimants for interest and costs totalling Eight Hundred Twenty-Four Dollars and Thirty-Five Cents (\$824.35).

AWARD

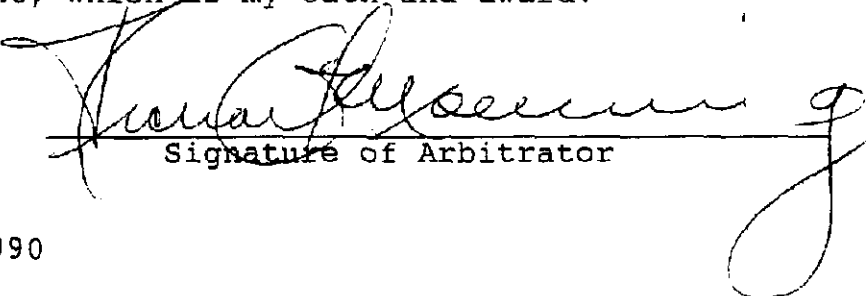
Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Richard C. Moenning, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on February 28, 1990 and by the Respondent on July 25, 1990, respectively;

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

1. That the claim of Asher A. and Lorell F. Blass be and hereby is dismissed in its entirety.
2. Claimants are liable and shall pay to the Respondent the sum of Three Hundred Twenty-Five Dollars and No Cents (\$325.00) representing a portion of the counterclaim request.
3. Respondent's request for interest is denied.
4. The parties shall bear their respective costs including attorney's fees.
5. The Twenty-Five Dollar and No Cents (\$25.00) filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants shall be retained by the NASD, Inc.

AFFIRMATION

I, Richard C. Moenning, 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.

  
Signature of Arbitrator

DATED: December 21, 1990