



N.A.S.D. AWARD

Arbitration

NATIONAL ASSOCIATION OF SECURITIES DEALERS

National Association of
Securities Dealers, Inc.
NASD Financial Center
33 Whitehall Street
New York, N.Y. 10004
FAX (212) 858-4389

In the Matter of the Arbitration Between

Name of Claimant

Adam M. Smiarowski

vs.

Cause No. 90-01541

Name of Respondent

David Cameron
William M. Cadden Co., Inc.

REPRESENTATION

Claimant, Adam M. Smiarowski, appeared pro se.

For Respondent, David Cameron: John L. Lawlor, Esq.

Respondent William M. Cadden Co., Inc. did not appear.

CASE INFORMATION

Claimant's Submission Agreement signed on: July 19, 1990.

Respondent, David Cameron's Submission Agreement signed on: July 18, 1990.

HEARING INFORMATION

Hearing Date/Sessions: January 29, 1992 - Two (2) sessions.

Hearing Location: New York City, New York.

CASE SUMMARY

Claimant alleged that respondents misrepresented the value of the shares Avon Rent A Car & Truck, Rental B Warrants in the newspaper, and failed to sell the shares when directed to do so by Claimant.

Respondent alleged that Claimant followed the price of the shares in the newspapers, and had never given a firm order to sell. Respondent further alleged that Claimant's purchase of additional shares through another broker is inconsistent with the alleged sell instruction. When Claimant learned that the shares had not been sold, the stock still had value, and Claimant's failure to sell them or mitigate his damages should estop any recovery.

RELIEF REQUESTED

Claimant requested damages in the amount of \$10, 937.00.

Respondent requested dismissal of the claim.

OTHER ISSUES CONSIDERED & DECIDED

William M. Cadden & Co., Inc. did not appear nor did they submit an executed Submission Agreement. Based upon the evidence submitted in Arbitrator's Exhibit No. 1 regarding hearing notices to the parties, this arbitrator finds that proper notice exists as well as jurisdiction pursuant to Section 12(a) of the Code of Arbitration Procedure over Respondent William M. Cadden & Co., Inc..

Pursuant to Section 29 of the Code of Arbitration Procedure and based upon evidence in Arbitration Exhibit No. 1, this arbitration panel proceeded with the hearing in Respondent's absence.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

Claimant is awarded the sum of \$5,215.00, inclusive of interest.

FORUM FEES

Pursuant to Section 44c of the Code of Arbitration Procedure, the following Forum Fee are assessed any deposits previously made shall be applied to the fees assessed.

1. The NASD has received and shall retain the \$100.00 non-refundable fee paid by the Claimant;
2. The NASD has received and shall retain the \$300.00 hearing session deposit paid by the Claimant;
3. Claimant is assessed \$100.00 non-refundable filing fee;
4. Forum fees in the amount of \$600.00 for two (2) hearing sessions has been assessed and shall be borne equally by the parties;
5. Therefore, Respondent shall remit \$300.00 to the NASD.

Fees are payable to the National Association of Securities Dealers, Inc.

Page 3
90-1541

Concurring Arbitrator's Signature

Dorothy F. Gray
Dorothy F. Gray, Esq.

Public

Date of Decision: February 18, 1992

STATE OF *NV*
COUNTY OF *NY*

s

.a.:

On this *11th* day of *February*, 19*92*, before me personally *Dorothy F. Gray* appeared *Dorothy F. Gray* known and known to me ~~individual described in and who executed the foregoing instrument and be duly acknowledged to me that he/she executed the~~

[Signature]
2/11/92

JAMES PAGUAGA
Notary Public, State of New York
No. 24-01PA4861800
Qualified in Kings County *3*
Commission Expires June 6, 199*3*