

NATIONAL ASSOCIATION OF SECURITIES DEALERS

National Association of
Securities Dealers, Inc.
NASD Financial Center
33 Whitehall Street
New York, New York 10004

In the Matter of the Arbitration BetweenName of Claimant

Wallace Dahlke

vs

Case #
90-01915Name of RespondentsMarshall Davis, Inc.
Kirk M. Johnson

Heard before:Name
Floyd C. HalePublic/Industry
PublicCASE SUMMARY

This claim was initiated by a Statement of Claim filed with the National Association of Securities Dealers, Inc. ("NASD") on July 09, 1990. Claimant, alleges that Respondent, Kirk Johnson, the assistant manager of the Respondent firm, solicited the purchases of 50,000 shares of Signum at 7.5 cents (\$3,760.00) and 9,000 shares of EMK at 50 cents a share (\$4,515.00). Claimant further alleges that Respondent, Johnson, misrepresented that the stocks were still worth 7.5 cents and 50 cents, respectively and failed to disclose that the firm went out of business. Claimant contends that Signum is now worthless and that EMK has fallen to 1 cent a share.

In a Statement of Answer filed with the NASD on October 9, 1990, Respondent, Kirk Johnson, denies the allegations of wrongdoing and denies liability.

Respondent, Marshall Davis, Inc., did not file a Statement of Answer or appear at the hearing to defend the allegations asserted against it.

RELIEF REQUESTED

Claimant requests that the arbitrator award him \$8,275.00.

Respondent requests that the arbitrator dismiss the claims.

AWARD

On January 22, 1991, in Atlanta, Georgia during a hearing consisting of one session, the undersigned arbitrator heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant, Wallace Dalke, on August 06, 1991, and signed by Kirk Johnson on October 4, 1991. Respondent, Marshall Davis, Inc. did not execute a submission agreement.

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

Respondents, Kirk Johnson and Marshall Davis, Inc., are hereby jointly and severally liable to the Claimant and shall pay Claimant Four Thousand Dollars and Zero Cent (\$4,000.00).

OTHER ISSUES

Respondent, Marshall Davis, Inc. did not file and Answer or appear at the hearing to defend the allegations asserted against it. However, based upon the information submitted as part of Arbitrator's Exhibit No. 1 regarding notices to the parties, this arbitrator finds that proper notice was given. In accordance with Section 29 of the Code of Arbitration Procedure, this Arbitrator proceeded with the hearing.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following forum fees are assessed:

1. The NASD shall retain the \$200.00 deposit made by the Claimant;
2. Claimant is assessed a non-refundable filing fee of \$75.00 which shall be deducted from the \$200.00 deposit already made by Claimant;
3. Respondents are equally assessed \$200.00 in forum costs which shall be satisfied by refunding Claimant \$125.00 and submitting to the NASD a check in the amount of \$75.00.

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

Arbitrator Signature

Floyd C. Hale
Floyd C. Hale

Date of Decision: January 31, 1991

DATED BY NASD
FEBRUARY 5, 1991