

N.A.S.D AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

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In the Matter of the Arbitration Between

CHARLES H. DENNIS

Claimant

and

90-02191

THOMAS DELANY

Respondent

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REPRESENTATION OF PARTIES

Claimant, Charles H. Dennis appeared pro se.

Respondent, Thomas J. Delany failed to appear either by counsel or in person.

CASE SUMMARY

In a Statement of Claim filed with the National Association of Securities Dealers, Inc. ("NASD") on or about September 12, 1990 Claimant alleges unauthorized trades, churning, excessive broker's fees, and refusal to return Claimant's, Charles H. Dennis', stock.

In September of 1983, Claimant delivered shares of stock to Respondent, Thomas J. Delany, to hold in an account and invest the dividends for Claimant. Between the dates of September 1983 and September of 1989, Respondent conducted trades not authorized by Claimant, and further refused to return Claimant's Stock to him after repeated demands. To cover the excess obligations created by respondent's actions, Claimant was forced to satisfy them with his own funds, and through the sale of stock. Respondent, Thomas J. Delany, failed to appear at the hearing, and the matter of proper service was taken on the record.

RELIEF REQUESTED

Claimant requests damages in the amount of \$25,000.00, representing the value of stock lost, and the brokerage fees and interest charged to Claimant.

### OTHER ISSUES

The NASD had, on numerous occasions, attempted to contact Respondent on matters relating to this case. The attempts are as follows:

1. August 21, 1990 by regular mail.
2. September 19, 1990 by regular mail.
3. November 12, 1990 by regular mail.
4. January 18, 1991 by certified mail from the NASD's New York office.
5. June 26, 1991 by certified mail from the Chicago office. The office received a signed green card back, and also received the mailing back without any markings indicating that it had been returned by regular or certified mail.

After the aforementioned facts were made into the record, the sole arbitrator, below, held service to be proper and the hearing was allowed to commence.

Respondent, Thomas J. Delany, failed to appear at the hearing. However, the hearing was allowed to commence under section 29 of the NASD Code of Arbitration Procedure.

### PROCEDURAL MATTERS

On July 16, 1991 in Chicago, Illinois during a hearing lasting a total of one (1) session, the undersigned arbitrator heard the controversy between the parties as set forth in submissions to arbitration signed on August 6, 1990 by Claimant Charles H. Dennis. Respondent failed to answer and failed to file a submission agreement.

Respondent, Thomas J. Delany, did not file with the NASD a properly executed submission to arbitration but is required to submit to arbitration pursuant to Section 12 of the NASD Code of Arbitration Procedure. Respondent by failing to appear is hereby held bound by the determination of the arbitrator on all issues submitted.

The parties have agreed that the Award may be executed by a handwritten signed Award. In either case, the parties have agreed to receive conformed copies of the award while the original remain on file with the NASD.

AWARD

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

1. Claimant's request for \$25,000.00 in damages is hereby granted. Respondent, Thomas J. Delany, is liable to and ordered to pay to Claimant, Charles H. Dennis, \$25,000.00.

2. Claimant is hereby awarded all costs related to this matter. Respondent, Thomas J. Delany, is liable to, and shall pay to Claimant, Charles H. Dennis, all costs expended by Claimant in this matter pursuant to paragraph 3 below.

3. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the hearing session deposit in the amount of \$400.00 previously deposited with the NASD by the Claimant. Respondent is liable to and shall pay to Claimant the \$400.00 expended by Claimant herein.

Dated:

July 16, 1991

S/S Robin David, Esq.  
Presiding Arbitrator  
Public Arbitrator