

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between :

Charles W. Andrews :

Claimant :

vs. :

CASE #90-02509

AWARD

Hopper Soliday and Co., Inc. :

Philadelphia Corporation :

Gordon Wright :

Robert Smith :

Respondent :

CASE SUMMARY

Pro Se Claimant, Charles W. Andrews, in a claim filed with the National Association of Securities Dealers, Inc. on September 10, 1990, alleged that Respondents Hopper Soliday and Co., Inc. and Compliance Director Gordon Wright did not handle the transfer of his funds correctly when he requested that his accounts be transferred to Philadelphia Corporation. He feels that the Philadelphia Corporation and Robert Smith did not attempt to correct mistakes made during this transfer.

Respondents, Hopper Soliday & Co., Inc. and Gordon Wright by their attorney Michael J. Stutman, Philadelphia, PA, maintained that Claimant's accounts were transferred to Philadelphia Corporation containing debit balances, that Philadelphia Corporation issued a check to Hopper Soliday that was insufficient to cover the debit balance but because of a clerical error a check was issued to Mr. Andrews for the difference between the check issued by Philadelphia Corporation and Claimant's debit balance in his cash account, failing to take into account the debit balance in Mr. Andrews margin account. Therefore, Mr. Andrews was the recipient of a check when he actually should have paid Hopper Soliday to clear the debit balance. They issue a Counterclaim for this sum.

Respondents Philadelphia Corporation and Robert Smith, by their attorney A. Louis Denton, Esq., maintained they requested that Mr. Andrews' account be transferred in full including the debit balance in Mr. Andrews' margin account. They continue, that Hopper Soliday requested Five Thousand One Hundred Forty-Four Dollars (\$5,144) to satisfy the margin account debit balance and

that they had not reason to send more money than the sum requested. Philadelphia Corporation and Robert Smith request to be removed from the case.

Mr. Andrews replies that the transaction that was to occur between Hopper Soliday and Philadelphia Corporation was never completed and that he believes both companies acted in an irresponsible manner.

RELIEF REQUESTED

Claimant requests that he be relieved of the Two Thousand Three Hundred Forty-Seven Dollars and Forty-Four Cents (\$2,347.44) debit cash balance, be awarded Three Thousand Dollars (\$3,000) in compensatory damages and costs.

Respondents Philadelphia Corporation and Robert Smith requested removal from the case.

Respondents Hopper Soliday and Co., Inc. and Gordon Wright counterclaimed for the debit balance in Claimant's account totalling Four Thousand Seven Hundred Thirty Dollars and Forty-Four Cents (\$4,730.44) plus interest.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single public arbitrator, Guillermo L. Bosch, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on March 5, 1991 and by the Respondent Hopper Soliday & Co., Inc. on April 25, 1991, by Respondent Philadelphia Corporation on April 9, 1991, by Respondent Gordon Wright on April 25, 1991 and by Respondent Robert Smith on April 9, 1991.

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:

1. The claims of the Claimant against the Respondents be and hereby are dismissed.
2. The counterclaim of Respondent Hopper Soliday & Co., Inc. and Gordon Wright is granted and Claimant shall pay to Respondent Hopper Soliday & Co., Inc. the sum of Two Thousand Three Hundred Eighty-Three Dollars and No Cents (\$2,383.00). No interest is awarded.

3. The parties shall bear their respective costs.
4. The One Hundred Fifty Dollar (\$150) filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc. and is assessed against Respondent Hopper Soliday & Co., Inc. who shall pay One Hundred Fifty Dollars (\$150) directly to the Claimant as reimbursement of the filing fee.

AFFIRMATION

I, GUILLERMO L. BOSCH, 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:

12/6/91

DATED BY THE NASD, INC.: December 16, 1991