

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

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In the Matter of the Arbitration Between :  
:  
Steven H. Dunkleberger :  
:  
Claimant :  
:  
vs. :  
:  
G.K. Scott & Co. :  
Phil Mullan :  
:  
Respondents: :  
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CASE #90-03179  
AWARD

CASE SUMMARY

Pro Se Claimant, Steven H. Dunkleberger, in a claim filed with the National Association of Securities Dealers, Inc. on November 9, 1990, alleged that Broker, G.K. Scott & Co., Inc. through its registered representative, Phil Mullan, purchased 10,000 Consulier Industries Inc. warrants (CSLRW) for claimant's non-discretionary account without the approval of claimant. As an alternative to the above claim, claimant alleges that at a subsequent time, Broker through its registered representative, failed to execute claimant's order to sell 12,500 CSLRW warrants as directed, selling only 2,500 instead. Respondent Broker, G.K. Scott & Co., Inc., by its Compliance Officer Fred F. Cirillo, denies liability for the alleged unauthorized purchase, asserting that claimant accepted the trade and did not file a letter of complaint to Broker. Broker also denies any liability for the failure to execute the order to sell 12,500 CSLRW warrants, alleging that the order was changed to a sell order of 2,500 warrants because of a drop in bid price. Respondent, Phil Mullan, has entered no response.

The undersigned arbitrator considered the pleadings submitted by the parties without a formal hearing in accordance with the Simplified Arbitration Procedures provided for by Section 13(f) of the Code of Arbitration. Additional documentary evidence was requested of the parties in accordance with Section 13(h) and submissions in response thereto were also considered in the resolution of issues submitted for determination. No consideration was given to additional documentary evidence provided by claimant and forwarded to the undersigned by NASD Senior Legal Assistant by letter dated June 21, 1991.

RELIEF REQUEST

Claimant seeks Two Thousand Five Hundred Dollars and No Cents (\$2,500.00) in full refund for losses incurred on the unauthorized purchase of 10,000 CSLRW warrants. In the alternative, Claimant seeks One Thousand One Hundred Fifty Dollars and No Cents (\$1,150.00) in losses incurred from the failure of Broker to execute fully the sell order of 12,500 CSLRW warrants.

Respondent, G.K. Scott & Co., Inc., seeks denial of the claim in its entirety. Respondent, Phil Mullan, has entered no response nor sought any relief.

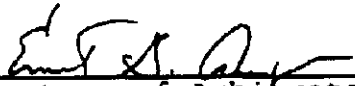
AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Ernesto G. Amparo, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on November 2, 1990 and by the Respondent, G.K. Scott & Co., Inc. on February 14, 1991 but not by the Respondent, Phil Mullan as required by Section 13(d) of the Code of Arbitration Procedure.

1. That the Respondents, G.K. Scott & Co., Inc. and Phil Mullan, are jointly and severally liable and shall pay to the Claimant, Steven H. Dunkleberger, the sum of Two Thousand Five Hundred Dollars and No Cents (\$2,500.00).
2. The Fifty Dollars and No Cents (\$50.00) 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 jointly and severally against the Respondents, G.K. Scott & Co., Inc. and Phil Mullan, who shall pay Fifty Dollars and No Cents (\$50.00) to the Claimant, Steven H. Dunkleberger.

AFFIRMATION

I, ERNESTO G. AMPARO, 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.

  
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Signature of Arbitrator

DATED: 19 Aug 91  
EXECUTED