

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between
Stephen Shapiro and Stephen Shapiro d/b/a
Yonkers Sales Company

vs. Claimant
Ariel Equities, Inc. and Yaacov Ariel
Respondents

CASE #91-00043
AWARD

Heard Before:

Daniel E. Gulden

Public Arbitrator

REPRESENTATION

The Claimant appeared pro se and the Respondents were represented by Noel Guardi, Esq. who conducted the hearing over the telephone. The Respondent Yaacov Ariel appeared via the telephone.

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. ("NASD") on January 3, 1991 Claimant Stephen Shapiro and Stephen Shapiro d/b/a Yonkers Sales Company, ("Claimant"), alleged that Respondents Yaacov Ariel and Ariel Equities, Inc., ("Respondents") purchased shares of stock from Claimant and through no fault of the Claimant delivery could not be made on a timely basis and Regulation T buy ins were executed. Claimant further alleged that after selling all shares through the original brokers, he asked Respondents to release his credit balances which the Respondents failed to do.

Respondents maintained that Claimant breached the terms of the sale and therefore has no standing to sue and could not claim unjust enrichment. Respondents further maintained that Claimant was given fair and ample warning and waived his rights to the proceeds. Respondents also maintained that by failing to deliver the securities, Claimant gave Respondents the right to keep the proceeds. Respondents also maintained that there was no negligence on their part and they fully complied with Regulation T; however, in the event negligence is found, Respondents maintained that their negligence did not cause Claimant to lose money.

RELIEF REQUESTED

Claimant requested damages of \$2,378.37. Respondents requested dismissal of claim.

AWARD

On June 10, 1991 the undersigned arbitrator heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant, Stephen Shapiro and Stephen Shapiro d/b/a Yonkers Sales Company on December 21, 1990 by Respondent, Ariel Equities, Inc. on March 28, 1991 and not signed by Respondent Yaacov Ariel as required pursuant to Section 8 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure. The hearing was conducted at the offices of the National Association of Securities Dealers, Inc. located in Atlanta, GA and consisted of two (2) hearing sessions including a pre-hearing conference conducted on June 3, 1991. The undersigned arbitrator, having considered the pleadings, the testimony, and the evidence presented at the hearing, has determined in full and final resolution of the issues submitted for determination as follows:

1. The claims by the Claimant be and hereby are dismissed in all respects.
2. The parties shall each bear their respective costs, including attorneys' fees.

FORUM FEES

Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$50.00 filing fee previously deposited by the Claimant. In addition, the Claimant be and hereby is liable and shall pay to the National Association of Securities Dealers, Inc. the sum of \$25.00 to represent forum fees.

CONCURRING ARBITRATOR


Daniel E. Gulden

Date of Decision: July , 1991