

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

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In the Matter of the Arbitration Between :

~~Thomas Dawkins Sutton~~ :

Claimant :

vs. :

Stuart-James Company, Inc. :  
Kerry Oliver :

Respondents :  
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CASE 187-00805  
AWARD

CASE SUMMARY

Pro Se Claimant, Thomas Dawkins Sutton, in a claim filed with the National Association of Securities Dealers, Inc. on March 13, 1991, alleged that Respondents have failed to mail him his stock certificate for 50,000 shares of Independent Air Holdings, Inc. in spite of his written request on December 19, 1990 for them to do so; he further states that Tom McAfee, manager of the Atlanta office of Stuart-James Company, Inc., informed him that the stock certificates now have zero value.

Respondent, The Stuart-James Company, Inc. through its attorney, Christa D. Taylor of Hart & Trinen, Denver, CO, maintained that Claimant was informed on his last account statement that his shares of IAIR were delivered to Chatfield Dean & Co. on December 3, 1990 where he may write and ask for delivery. They state that Mr. Sutton does not claim any lack of authorization or wrongdoing, nor did any occur.

Respondent Kerry Oliver failed to respond to the Statement of Claim sent to him on March 21, 1991. The Claim was reserved on Mr. Oliver on June 24, 1991, but was returned to the NASD, Inc. marked "unclaimed". The Statement of Claim was resent to Mr. Oliver by regular mail on July 22, 1991 and not returned. Kerry Oliver failed to answer the Statement of Claim.

Claimant, in a response to the Answer of The Stuart-James Company, Inc., states that he never received any prospectus, alleges the Respondent manipulated the value of the Independent Air stock and reaffirms his relief request.

RELIEF REQUESTED

Claimant requests that his stock certificates be sent to him and that he be refunded the purchase price of the stock in the sum of Six Thousand Two Hundred Sixty Dollars and No Cents (\$6,260.00) plus 10% interest for one and a half years equalling Six Thousand Eight Hundred Eighty-Six Dollars and No Cents (\$6,886.00).

Respondent, Stuart-James Co., Inc. requests dismissal of the Claim.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Larry J. Dagenhart, 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 June 19, 1991 and by the Respondent, The Stuart-James Co., Inc., on April 18, 1991 but not by Kerry Oliver as required by Section 13(d) of the Code of Arbitration Procedure.

And, that 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. That the Claim of Thomas Dawkins Sutton be, and hereby is, dismissed in its entirety.
2. The One Hundred Fifty Dollars and No Cents (\$150.00) filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc.

AFFIRMATION

I, LARRY J. DAGENHART, 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.

  
Signature of Arbitrator

DATED: 9/19/91