

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between
Clarence and Mary Mann

Claimants

vs.

Allied Capital Group, Inc.
William J. Kennedy

Respondents

CASE #91-01030
AWARD

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on April 3, 1991, Claimants Clarence and Mary Mann who appeared Pro Se, alleged that Respondents Allied Capital Group Inc. and William J. Kennedy purchased without authorization 31,000 shares of Immune Response, Inc. stock and that although Respondent William J. Kennedy admitted this was a clerical error and stated many times the error would be corrected, the problem was never resolved.

Respondents, Allied Capital Group, Inc. and William J. Kennedy, failed to file an answer to the Claimant's Statement of Claim.

RELIEF REQUESTED

Claimants requested \$1,041.60 in actual damages plus interest punitive damages and return of the NASD filing fee.

Respondents, Allied Capital Group, Inc. and William J. Kennedy, failed to file an answer to the Claimant's Statement of Claim.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Deena J. Powell, was selected to review and determine the matter in controversy between the parties set forth

in submissions to Arbitration signed by the Claimants on March 26, 1991 and not by the Respondents as required by Sections 12 & 13 of the NASD Code of Arbitration Procedure.

1. In accordance with Section 13 of the NASD Code of Arbitration Procedure the Respondents were served a copy of the Statement of Claim by regular mail and given an opportunity to respond, which they failed to do. Service was effected on September 30, 1991 as evidenced by the executed return receipt from the post office.
2. Pursuant to the By-Laws of the NASD the arbitrator determined that Respondents Allied Capital Group, Inc. and William J. Kennedy were required to submit to this arbitration proceeding and is, therefore, bound by the arbitrator's ruling and determination.

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 Respondents, Allied Capital Group, Inc. and William J. Kennedy, are jointly and severally liable and shall pay \$1,250.00 to Claimants, Clarence and Mary Mann, inclusive of interest.
2. The Respondents, Allied Capital Group, Inc. and William J. Kennedy, are jointly and severally liable and shall pay \$1,400.00 to the Claimants, Clarence and Mary Mann, in punitive damages.
3. The parties shall bear their respective costs.
4. The \$50.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants shall be retained by the NASD, Inc. Respondent Allied Capital Group, Inc. shall pay \$50.00 to Claimants as reimbursement.

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AFFIRMATION

I, DEENA J. POWELL, 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.

Deena Powell

Signature of Arbitrator

DATE OF DECISION: January 29, 1992