

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between :

Mary E. Folkner (Soika) :

Claimant :

vs. :

M. Rimson & Co., Inc.
Joseph Swint :

Respondents :

CASE #91-01082
AWARD

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on April 5, 1991, Claimant Mary E. Folkner (Soika), who appeared Pro Se, alleged that Respondents M. Rimson & Co., Inc. and Joseph Swint were negligent when they failed to execute a sale of 4,000 shares of Equitas Group stock that the Claimant instructed to sell at \$1.25 a share. Claimant further alleged that Respondent Joseph Swint signed an agreement to pay her \$5,000.00 if she agreed to relinquish the stock to him and the Respondent failed to honor the agreement.

Respondent, M. Rimson & Co., Inc., maintained that they deny any allegations made against them by the Claimant. Respondent M. Rimson & Co., Inc. also maintained that any agreement that exists between the Claimant and Respondent Joseph Swint was made without their knowledge or authority. Respondent M. Rimson & Co., Inc. further maintained that pursuant to a letter signed by Joseph Swint on December 19, 1990, Mr. Swint states M. Rimson & Co., Inc. had no responsibility to the Claimant and no liability to this matter.

Respondent Joseph Swint failed to file an Answer to the Statement of Claim.

RELIEF REQUESTED

Claimant, Mary E. Folkner (Soika) requested \$5,000.00 in actual damages.

Respondent, M. Rimson & Co., Inc. requested they be dismissed from this case.

Respondent, Joseph Swint failed to file an Answer to the Statement of Claim.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Michael Du Boff, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on April 1, 1991 and by the Respondent M. Rimson & Co., Inc. on May 14, 1991 and not signed by Respondent Joseph Swint 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 Respondent, Joseph Swint, was served a copy of the Statement of Claim by regular mail and given an opportunity to respond, which he failed to do.
2. Pursuant to the By-Laws of the NASD the arbitrator determined that Respondent Joseph Swint was 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. Respondent Joseph Swint is liable and shall pay \$5,000.00 in damages to Claimant Mary E. Folkner (Soika) and Claimant Mary E. Folkner (Soika) shall relinquish 4,000 shares of Equitas Group stock to Respondent Joseph Swint upon receipt of the payment of the Award in full.
2. The Claimant's claims against Respondent M. Rimson & Co., Inc. are dismissed.
3. The parties shall bear their respective costs.
4. The \$125.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc. Respondent Joseph Swint shall pay \$125.00 to the Claimant as reimbursement.

AFFIRMATION

I, **MICHAEL Du BOFF**, 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

DATE OF DECISION: January 23, 1992

STATE OF:

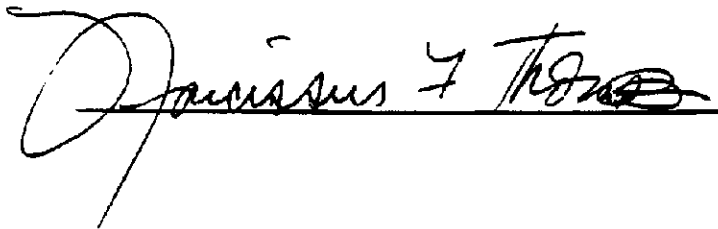
New York

SS:

COUNTY OF:

New York

On this 17th day of January, 1992, before me personally appeared **Michael H. Du Boff** to me known and known before me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.



NARCISSUS F. THOMAS
COMMISSIONER OF DEEDS
City of New York, No. 2-3866
Certificate Filed in Kings County
Commission Expires October 1, 1993