

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between :

Anthony Hardy :

Claimant :

vs. :

CASE #91-02522
AWARD

Wellshire Securities, Inc. - :

Lawrence J. Carsi - :

Thomas A. Butterfield - :

Joseph Jenkins, Jr. - :

Edward D. Braverman :

Robert Cohen :

Carol Martino . :

Respondents :

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on August 16, 1991, Claimant, Anthony Hardy, who appeared Pro Se, alleged that Respondent, Lawrence J. Carsi, a registered representative with Respondent, Wellshire Securities, Inc. recommended and solicited him to purchase shares in Environmental Landfills, Nightwing Group, Inc. and International Media by misrepresenting the financial status of these stocks and potential risk of loss, in addition to withholding relevant facts about these investments. Claimant further alleged that in August 1989 Respondent, Thomas A. Butterfield was assigned to Claimant's account when Respondent, Lawrence J. Carsi resigned from Respondent, Wellshire Securities, Inc. Claimant contended that Respondent, Thomas A. Butterfield purchased 2,500 Ventura warrants without his authorization or knowledge in his account, at which time, Claimant immediately notified Respondent, Thomas A. Butterfield of the error and Respondent, Thomas A. Butterfield claimed that he had understood that Claimant wanted the stock. Claimant further contended that he contacted Respondent, Robert Cohen, President of Respondent, Wellshire Securities, Inc., to explain that he was having problems with their broker Respondent, Thomas A. Butterfield but was referred to Respondent, Edward D. Braverman, a Wellshire Securities, Inc. executive. Claimant asserted that Respondent, Edward D. Braverman recommended he speak with Respondent, Joseph Jenkins, Jr., Vice-President, and through Claimant's discussion with Respondent, Joseph Jenkins, Jr., he

highly recommended the Ventura investment; thereafter, Claimant decided to let the unauthorized order stand and transferred his account to Respondent, Joseph Jenkins, Jr. Claimant further asserted that Respondent, Joseph Jenkins, Jr. highly recommended the purchase of 2,500 shares of Treats by misrepresenting its future value and suggesting that Claimant sell his 1,000 shares of Nightwing Group, Inc. to cover this purchase, at which time, Claimant express mailed to Respondents, Wellshire Securities, Inc. and Joseph Jenkins, Jr. the stock certificate for Nightwing. Claimant further maintained that he remained a client of Respondent, Wellshire Securities, Inc. until April 1990 when Respondent, Joseph Jenkins, Jr. resigned. Claimant argued that the evidence shows that Respondent, Wellshire Securities, Inc. controlling persons, Respondents, Robert Cohen, Carol Martino and Edward D. Braverman participated in, ratified the materially false and misleading statements made by Respondent, Wellshire Securities, Inc. agents, Respondents, Lawrence J. Carsi, Thomas A. Butterfield and Joseph Jenkins, Jr., who were negligent in their fiduciary duty, acting with total disregard to Claimant's best interest, thus, they are liable for losses in Claimant's account.

Respondent, Thomas A. Butterfield by and through his counsel, Richard J. Bennett, Esq., Sole Practitioner, Roslyn, New York, maintained that in August 1989 he was assigned to Claimant, Anthony Hardy's account and on or about August 8, 1989 he spoke at length with Claimant concerning Ventura, Inc., at which time, Claimant instructed Respondent, Thomas A. Butterfield to purchase 2,500 warrants of Ventura, Inc. for his account. Respondent, Thomas A. Butterfield further maintained that a confirmation was sent to Claimant and Claimant mailed in a check to pay for his Ventura, Inc. purchase. Respondent, Thomas A. Butterfield contended that shortly thereafter, Claimant contacted him, and told him that he had received a call from Respondent, Joseph Jenkins, Jr. of Wellshire Securities, Inc. and that he was better equipped to handle his account. Respondent further contended that at Claimant's request, his account at Respondent, Wellshire Securities, Inc. was transferred to Respondent, Joseph Jenkins, Jr. Respondent, Thomas A. Butterfield asserted that Claimant's contention that the Ventura, Inc. purchase was unauthorized and without his knowledge, is ludicrous and without any merit in light of the fact that Claimant mailed in a check to pay for this purchase of the stock, within the settlement period. Respondent, Thomas A. Butterfield further asserted that he handled Claimant's account at all times in a proper and fair manner and is not responsible in any way for the acts of Respondent, Wellshire Securities, Inc., its management or other brokers of the firm.

Respondent, Wellshire Securities, Inc. failed to file an Answer to the Statement of Claim.

Respondent, Lawrence J. Carsi failed to file an Answer to the Statement of Claim.

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

Respondent, Edward D. Braverman failed to file an Answer to the Statement of Claim.

Respondent, Robert Cohen failed to file an Answer to the Statement of Claim.

Respondent, Carol Martino failed to file an Answer to the Statement of Claim.

RELIEF REQUESTED

Claimant, Anthony Hardy requested \$9,807.50 in actual damages plus \$1,500.00 in Punitive damages and interest together with costs in the amount of \$161.32 and reimbursement of the NASD, Inc. filing fee.

Respondent, Thomas A. Butterfield requested the claim be dismissed and he be awarded legal fees.

Respondent, Wellshire Securities, Inc. failed to file an Answer to the Statement of Claim.

Respondent, Lawrence J. Carsi failed to file an Answer to the Statement of Claim.

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

Respondent, Edward D. Braverman failed to file an Answer to the Statement of Claim.

Respondent, Robert Cohen failed to file an Answer to the Statement of Claim.

Respondent, Carol Martino 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, Lynn R. Buzzard, was selected to review and

determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on August 9, 1991, by the Respondent, Thomas A. Butterfield on March 27, 1992 and not by Respondents, Wellshire Securities, Inc., Lawrence J. Carsi, Joseph Jenkins, Jr., Edward D. Braverman, Robert Cohen and Carol Martino 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, Wellshire Securities, Inc., Lawrence J. Carsi, Joseph Jenkins, Jr., Edward D. Braverman, Robert Cohen and Carol Martino were served a copy of the Statement of Claim by regular mail on December 10, 1991 and given an opportunity to respond, which they failed to do.

Respondents, Lawrence J. Carsi, Joseph Jenkins, Jr., Robert Cohen and Carol Martino were notified on February 12, 1992, via certified mail that their Statement of Answers were overdue. Respondent, Lawrence J. Carsi's signed certified mail receipt was returned to the NASD, Inc. Respondents, Wellshire Securities, Inc., Edward D. Braverman, Lawrence J. Carsi, Joseph Jenkins, Jr., Robert Cohen and Carol Martino were notified on February 26, 1992, via certified mail, of the selected arbitrator, pursuant to Section 22 of the NASD Code of Arbitration Procedure. Respondents, Lawrence J. Carsi and Joseph Jenkins, Jr. certified mail correspondence dated February 26, 1992 was returned "unclaimed". The February 26, 1992 correspondence was resent regular mail to Respondent, Lawrence J. Carsi and was not returned.

Respondent, Wellshire Securities, Inc. failed to file an Answer to the Statement of Claim.

Respondent, Lawrence J. Carsi failed to file an Answer to the Statement of Claim.

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

Respondent, Edward D. Braverman failed to file an Answer to the Statement of Claim.

Respondent, Robert Cohen failed to file an Answer to the Statement of Claim.

Respondent, Carol Martino failed to file an Answer to the Statement of Claim.

2. Pursuant to the By-Laws of the NASD the arbitrator determined that the Respondents, Wellshire Securities, Inc., Lawrence J. Carsi, Joseph Jenkins, Jr., Robert Cohen, Edward D. Braverman and Carol Martino were required to submit to this arbitration proceeding and are, therefore, bound by the arbitrator's ruling and determination.

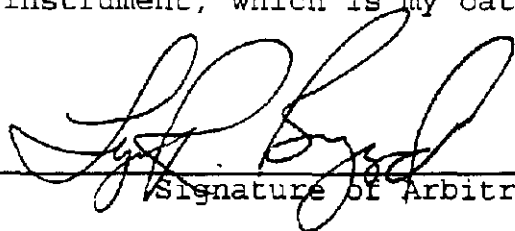
And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Respondents, Wellshire Securities, Inc., Lawrence J. Carsi, Robert Cohen and Carol Martino are jointly and severally liable and shall pay to the Claimant, Anthony Hardy the sum of \$2,195.00 in damages.
2. Respondents, Wellshire Securities, Inc., Lawrence J. Carsi, Thomas A. Butterfield, Joseph Jenkins, Jr., Robert Cohen and Carol Martino are jointly and severally liable and shall pay to the Claimant, Anthony Hardy the sum of \$2,515.00 in damages.
3. Respondents, Wellshire Securities, Inc., Joseph Jenkins, Jr., Robert Cohen and Carol Martino are jointly and severally liable and shall pay to the Claimant, Anthony Hardy the sum of \$1,340.00 in damages.
4. Respondents, Wellshire Securities, Inc., Lawrence J. Carsi, Thomas A. Butterfield, Joseph Jenkins, Jr., Robert Cohen and Carol Martino are jointly and severally liable and shall pay to the Claimant, Anthony Hardy the sum of \$1,500.00 representing Punitive damages.
5. The claim of Claimant, Anthony Hardy against Respondent, Edward D. Braverman is dismissed.
6. The Claimant's request for interest is denied.
7. The parties shall bear their respective costs, including attorney's fees.

8. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant, Anthony Hardy shall be retained by the NASD, Inc. Respondents, Wellshire Securities, Inc., Lawrence J. Carsi, Thomas A. Butterfield, Joseph Jenkins, Jr., Robert Cohen and Carol Martino are jointly and severally liable and shall pay to the Claimant, Anthony Hardy the sum of \$150.00 as reimbursement.

AFFIRMATION

I, LYNN R. BUZZARD, 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: JUL 31 1992
AUG 01 1992