

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between :

James H. Gaddis :

Claimant :

vs. :

Andover Securities, Inc. :
Victor Schimming :

Respondents :

CASE #91-02581
AWARD

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on August 20, 1991, Claimant James H. Gaddis who appeared Pro Se, alleged that Respondents Andover Securities, Inc. and Victor Schimming failed to deliver 2,000 shares of Missouri River Services, Inc. stock in a timely manner. The Claimant further alleged that by the time he received the stock, it was worthless, and that Respondent Victor Schimming had purposely delayed the delivery because he sensed the Claimant wished to sell them elsewhere, where the commission would be more reasonable.

Respondent, Victor Schimming, who appeared Pro Se, maintained that he made every effort to help the Claimant and that this claim is without merit against him, since the Claimant could have had the stock transferred to another brokerage firm, or could have requested a sale through his firm. The Respondent further maintained that he was not responsible for "backroom operations" and that the Claimant had initiated several other transactions prior to this one and that the Claimant never seemed dissatisfied with commission charges.

Respondent, Andover Securities, Inc., through their counsel William F. High, Esq. of Blackwell, Sanders, Matheny, Weary & Lombardi, Overland Park, KS, maintained that the Claimant could have sold the stock at any time but chose not to, and that Respondent Andover Securities had no control or the right to control the firms that handled the purchase, clearing and transfer and are therefore, not liable.

Respondent, Andover Securities, Inc. also submitted a Motion to Dismiss for the Claimant's failure to comply with the statute of limitations.

RELIEF REQUESTED

Claimant, James H. Gaddis requested \$2,000.00 in actual damages, interest in the amount of \$465.72, amended IRS return of \$45.00 and \$1,000.00 in punitive damages.

Respondent, Andover Securities requested the claims of the Claimant be dismissed.

Respondent, Victor Schimming requested the claims of the Claimant be dismissed.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Thaddeus J. Tecza, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on May 20, 1991, by the Respondent, Victor Schimming on October 1, 1991 and by Respondent, Andover Securities on September 20, 1991.

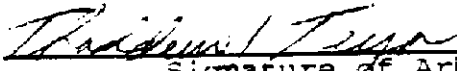
And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. All claims of the Claimant, James H. Gaddis against Respondents, Andover Securities and Victor Schimming are dismissed.
2. The Claimant's request for punitive damages is denied.
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. Respondents, Andover Securities and Victor Schimming shall pay \$62.50 to the Claimant to reimburse him for one half of the filing fee.

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AFFIRMATION

I, **THADDEUS J. TECZA**, 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: May 18, 1992