

N.A.S.D. AWARD
NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Donald R. Burris

91-02882

Name of Respondent

S.C. Costa Company, Inc.

REPRESENTATION

For Claimant at the hearing: Pro Se.

For Respondent at the hearing: Virgil L. Gaither, S.C. Costa Company, Inc., Tulsa, Oklahoma.

CASE INFORMATION

Statement of Claim filed: September 17, 1991.

Claimant's Submission Agreement signed on: September 12, 1991.

Statement of Answer filed by Respondent on: February 21, 1992.

Respondent's Submission Agreement signed on: February 14, 1992.

HEARING INFORMATION

Hearing Date/Session: October 22, 1992 for one (1) session.

Hearing Location: Oklahoma City, Oklahoma.

CASE SUMMARY

Claimant Donald Burris ("Burris") alleged that Respondent S.C. Costa Company, Inc. ("Costa") misinformed him of the Amgen sell price and such misinformation prevented Costa from repurchasing Amgen stock as desired on a timely basis. Burris also alleged that Costa failed to make an adjustment as requested on the day following when he was misinformed. Burris further

alleged that a lack of timeliness in sending Approval for Distribution form to him resulted in additional cost to Burris in repurchasing Amgen stock.

Respondent Costa denied any deliberate attempt to give Burris misinformation. Costa alleged that if Burris was interested in buying back the stock at the Monday closing price, he could have done so at nearly that price on Tuesday. Costa also alleged that Burris was never at any time denied access to his funds.

Burris filed a Reply to the Answer and alleged that the date he received the Approval form was August 27, 1991, but he did not have access to his distribution until August 29, 1991.

RELIEF REQUESTED

Claimant requested damages in the sum of \$15,552.00

Respondent requested reimbursement for the time and expense incurred in preparing the reply in the sum of \$2,500.00.

OTHER ISSUES CONSIDERED AND DECIDED

The parties have agreed that the Award in this matter may be executed by counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the Award while the original remains on file with the NASD.

AWARD

After considering the pleadings, the testimony and the evidence presented, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent S.C. Costa Company, Inc. shall be and hereby is liable for, and shall pay to the claimant, Donald Burris, compensatory damages in the sum of Six Hundred Twenty Three Dollars (\$623.00);
2. Respondent S.C. Costa Company, Inc. shall be and hereby is liable for, and shall pay to the Claimant, Donald Burris, interest on the above stated sum, at six percent (6%) from August 20, 1991;
3. Each of the parties shall bear their own costs and expenses incurred, other than those specifically enumerated for herein.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed:

1 hearing session X \$300.00 = \$300.00

Pursuant to Section 43c of the Code of Arbitration, the NASD shall retain the nonrefundable filing fee in the amount of \$100.00, and shall retain the hearing session deposit in the amount of \$300.00 previously paid to the NASD by the Claimant.

The Respondent, S.C. Costa Company, Inc. shall reimburse claimant, Donald Burris, the sum of \$300.00 for the hearing session deposit previously deposited with the NASD.

By The Arbitration Panel:

Dated:

12/7/92


James E. Golden, Jr., Esq.
Presiding Chair
Public Arbitrator

Date Award Served By The NASD: December 17, 1992