

PUBLIC

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between :

Bartlett L. Ackerson :

Claimant :

vs. :

Barrett Day Securities, Inc. :
Paul Keiley :

Respondents :

CASE #91-03137
AWARD

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on October 8, 1991, Claimant Bartlett L. Ackerson, who appeared Pro Se, alleged that on March 8, 1991 Respondent Paul Keiley, branch manager with Respondent Barrett Day Securities, Inc. sold his 3,750 shares of Quicksilver Enterprises, Inc. at \$1.125 per share and subsequently, purchased a total of 45,000 Vestex Corp. Class-A warrants due 9/30/91 at \$.10 without his knowledge or authorization while he was out of the country. Claimant further alleged that on March 18, 1991, when he returned, he immediately contacted Respondent Paul Keiley about the unauthorized trades and Respondent Paul Keiley advised him that "he would guarantee Claimant a 20% profit" whereby Claimant agreed to keep the trades. Claimant contended that on March 20, 1991 Respondent Paul Keiley contacted Claimant to request the net amount of \$437.25 due on the transactions and advised Claimant that he would sell the Vestex Warrants when he received the payment, at which time, Claimant would receive the 20% profit. Claimant further contended that after he sent the payment, he tried to contact Respondent Paul Keiley several times to no avail. Claimant asserted that Respondent Paul Keiley's inappropriate handling of his account and Respondent Barrett Day Securities, Inc. failure to supervise, caused him to sustain losses.

Respondent Barrett Day Securities, Inc. by and through their Compliance Officer, Phillip Bredow, maintained that in June 1991 they received a NASD complaint from Claimant Bartlett L. Ackerson and Respondent Paul Keiley was questioned thoroughly about the allegations of unauthorized trades in Claimant's account. Respondent Barrett Day Securities, Inc. further maintained that Respondent Paul Keiley informed them that he never guaranteed a 20%

profit to Claimant. Respondent Barrett Day Securities, Inc. contended that after reviewing the trades of March 8, 1991 and verifying that Claimant sent a check to cover the difference between the sale and purchase, the principals of Respondent Barrett Day Securities, Inc. determined that the trades were authorized by Claimant.

Respondent Paul Keiley, who appeared Pro Se, maintained that in March 1991 when Claimant Bartlett L. Ackerson contacted him at Respondent Barrett Day Securities, Inc., he recommended that Claimant sell his holdings in Quicksilver Enterprises, Inc. and purchase 45,000 Vestex warrants. Respondent Paul Keiley further maintained that Claimant agreed to the trades, at which time, on March 15, 1991 the Quicksilver stock was sold at \$1.125 and the Vestex warrants were purchased at \$.10. Respondent Paul Keiley contended that there was a difference in the proceeds of the sale and the purchase in the amount of \$437.25, at which time, Claimant sent this balance to Respondents, thus confirming his authorization and approval of the trades. Respondent Paul Keiley further contended that he never guaranteed Claimant a 20% profit on the Vestex holding. Respondent Paul Keiley asserted that Claimant approved and authorized the trades in question, therefore, he is not liable for any losses Claimant may have sustained.

RELIEF REQUESTED

Claimant Bartlett Day Securities, Inc. requested \$4,206.75 in actual damages.

Respondent Barrett Day Securities, Inc. requested the claim be denied.

Respondent Paul Keiley requested the claim be denied.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Gary M. Landau, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on October 3, 1991, by the Respondent Barrett Day Securities, Inc. on March 30, 1992 and by the Respondent Paul Keiley on March 18, 1992.

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 claims of Claimant Bartlett L. Ackerson against Respondents Barrett Day Securities, Inc. and Paul Keiley are dismissed.
2. The parties shall bear their respective costs.
3. The \$125.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Bartlett L. Ackerson shall be retained by the NASD, Inc. Respondent Barrett Day Securities, Inc. is liable and shall pay to the Claimant the sum of \$41.67 as partial reimbursement. Respondent Paul Keiley is liable and shall pay to the Claimant the sum of \$41.67 as partial reimbursement.

AFFIRMATION

I, GARY M. LANDAU, 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

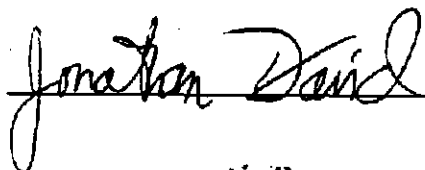
DATE OF DECISION: September 14, 1992

STATE OF: *New York*

ss:

COUNTY OF: *New York*

On this 8th day of September, 1992, before me personally appeared Gary M. Landau, Esq. 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.



JONATHAN DAVID
Notary Public, State of New York
No. 31-4987705
Qualified in New York County 93
Commission Expires Oct. 31, 1993