

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between :
Anchor National Financial Services, Inc. :
Claimant :
vs. :
Phillip A. Barragate, Esq. :
Respondent :

CASE #91-03239
AWARD

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on October 16, 1991, Claimant, Anchor National Financial Services, Inc. by and through their outside counsel, Richard Gottlieb, Esq., of Gottlieb & Gottlieb, P.A., Clearwater, Florida, alleged that on Friday, August 16, 1991 Respondent Phillip A. Barragate, Esq., a public customer, contacted them to place an unsolicited buy order of 150 UpJohn SEP Calls at 5/8 or better and has since failed to satisfy the debit balance in his account for this purchase. Claimant further alleged that they notified Respondent on Monday, August 19, 1991 that his order had been filled on that Friday. Claimant contended that they informed Respondent that notifications were delayed due to fast market conditions on that day. Claimant further contended that they provided Respondent with all requested documentation verifying this purchase of the options were made on Friday, August 16, 1991. Claimant asserted that the buy order was executed on that Friday and regardless of when Respondent received notification or any unforeseen world events, Respondent remains legally obligated to satisfy his account. Claimant further asserted a Motion to Bar Respondent, Phillip A. Barragate, Esq. from presenting any arguments, or defenses in this matter, pursuant to Section 25(b)(1) of the NASD Code of Arbitration Procedure.

Respondent, Phillip A. Barragate, Esq., who appeared Pro Se, maintained that on August 16, 1991 two of Claimants' Anchor National Financial Services, Inc. registered representatives heavily solicited him to purchase 150 UpJohn Calls by misrepresenting its future value. Respondent further maintained that Claimant misled him into purchasing the Calls by informing him that they had "direct inside information as to a buyout of UpJohn by Glaxo." Respondent contended that Claimant failed to provide

the requested documentation or proof that the buy order was executed on Friday, August 16, 1991. Respondent further contended that he was advised by Claimants' registered representative that he had filled the buy order only after the opening of the market on Monday, August 19, 1991 and after certain world news that made the option price drop considerably. Respondent argued that at no time did he receive sufficient proof that his buy order was actually filled on Friday, August 16, 1991.

RELIEF REQUESTED

Claimant, Anchor National Financial Services, Inc. requested \$7,272.18 in actual damages plus interest at 12% per annum from August 19, 1991, \$1,588.54 in attorney's fees, \$2,500.00 representing damages to Claimant's business and reimbursement of the NASD, Inc. filing fee.

Respondent, Phillip A. Barragate, Esq. requested the claims be denied.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Joseph Grossner, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on November 5, 1991 and not by the Respondent as required by Section 12 & 13 of the NASD Code of Arbitration Procedure.

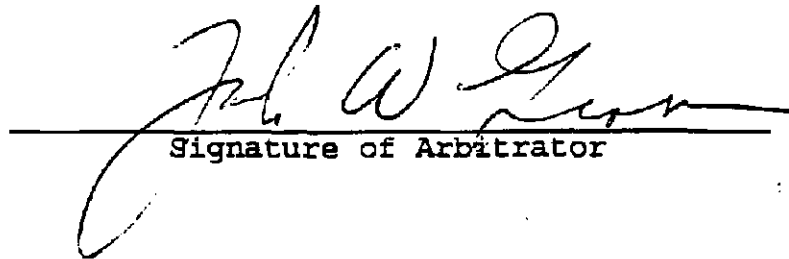
And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Respondent, Phillip A. Barragate, Esq. is liable and shall pay to the Claimant, Anchor National Financial Services, Inc. the sum of \$4,000.00 in actual damages.
2. Respondent, Phillip A. Barragate, Esq. is liable and shall pay to the Claimant, Anchor National Financial Services, Inc. simple interest at the rate of 12% per annum from the date of this award until date of payment of the award.

3. The Claimants' request for damages to its business is denied.
4. The Motion to Bar Respondent's Statement of Answer is denied.
5. The parties shall bear their respective costs, including attorney's fees.
6. The \$575.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc. Respondent, Phillip A. Barragate, Esq. shall pay \$500.00 to the Claimant as partial reimbursement.

AFFIRMATION

I, JOSEPH GROSSNER, 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: March 26, 1992