

## NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

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In the Matter of the Arbitration Between	:	
James & Lynn Chang, JT Ten	:	
	:	
Claimants	:	CASE #91-03986
	:	AWARD
vs.	:	
	:	
Barrett Day Securities, Inc.	:	
David Berger	:	
Manny Feit	:	
	:	
Respondents	:	

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CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on December 17, 1991, Claimants James & Lynn Chang who appeared Pro Se, alleged that on September 10, 1991 Respondents Barrett Day Securities, Inc. and Manny Feit, a registered representative, made unauthorized sales in their accounts totalling 30,000 shares of Alpha Solarco, Inc. Claimants further alleged that they immediately notified Respondent Barrett Day Securities, Inc. of the error and requested the trades be reversed, at which time, Respondent, Manny Feit alleged that Claimants had given him authorization to sell the securities to which Claimants deny. Claimants further alleged that they never agreed to have Respondent Manny Feit act as their broker nor did they receive notification that their broker, Mr. Su had resigned from Respondent, Barrett Day Securities, Inc. Claimants contended that Respondent, Manny Feit advised them that he would not reverse the trades but would repurchase the securities at favorable prices and waive the commissions at which time, Claimants informed Respondent Manny Feit to restore their shares at no charge to them. Claimants further contended that Respondent, Manny Feit continued to solicit them to make purchases in their accounts when he still had not corrected the Alpha Solarco, Inc. problem. Claimants further alleged that on October 7, 1991 Respondent, Manny Feit made an unauthorized purchase with the proceeds from the unauthorized sale, of 80,000 shares of Vestex Corp. Warrants - Class A at which time, Claimants again contacted Respondents, Barrett Day Securities, Inc. and Manny Feit to notify them of the error. Claimants asserted that they wrote letters to Respondents, Barrett Day Securities, Inc. and David Berger, President of Barrett Day

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Securities, Inc. to inform them of these errors and request they be resolved but received no consideration. Claimants further asserted that due to Respondents Barrett Day Securities, Inc. and David Berger's lack of supervision, Respondent, Manny Feit was able to mishandle their accounts, thus creating losses.

Respondents, Barrett Day Securities, Inc., David Berger, and Manny Feit who appeared Pro Se, maintained that on August, 28, 1991 Respondent Manny Feit received an unsolicited phone call from Claimants, James & Lynn Chang informing him that their broker, Mr. Jeng-Yi Su was no longer with the firm and they wanted the status of their accounts in addition to, Respondent Manny Feit's opinion of their portfolio. Respondent Manny Feit further maintained that he recommended that they sell their Alpha Solarco, Inc. stock at which time, Claimants instructed him to sell all their holdings. Respondent Manny Feit contended that Claimants contacted him a few days after the trades to inform Respondent, Manny Feit that after speaking to their former broker, Mr. Su, they had changed their mind about selling the stock and wanted him to reverse the trades. Respondent Manny Feit contended that he informed Claimants he could not reverse the trades but would try to buy back the stock at a favorable price and waive the commissions but he never stated there would be no charge to Claimants. Respondent Manny Feit asserted that he was constantly in touch with Claimants because he was keeping them abreast of their positions in Vestex Corp. and recommended that they add to their position, to which Claimants agreed. Respondent Manny Feit asserted that Claimants later contacted him to inform him that once again after speaking to their former broker, Mr. Su, they changed their mind about the purchase, at which time, Respondent Manny Feit told Claimants he bought the stock in good faith and the trade stands. Respondent Manny Feit further maintained that he received verbal authorization every time a trade was conducted on behalf of Claimants account. Respondent David Berger argued that he never spoke to Claimants or ever had a relationship whatsoever with them and that their letters were turned over to Respondent Barrett Day Securities, Inc. Compliance Department. Respondents, Barrett Day Securities, Inc., David Berger and Manny Feit further asserted that their Compliance Officer, Mr. Phillip Bredow, corresponded with Mr. Gerald Lechter of the NASD, Inc. in reference to Claimants complaint letters. Respondents, Barrett Day Securities, Inc., David Berger and Manny Feit further argued that Claimants were instigated and instructed by Mr. Su, a disgruntled former broker of Respondent, Barrett Day Securities, Inc. to defame them and that in fact, Respondent Manny Feit appropriately handled Claimants account.

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RELIEF REQUESTED

Claimants, James & Lynn Chang requested \$9,500.00 in actual damages and other monetary expenses.

Respondents, Barrett Day Securities, Inc., David Berger and Manny Feit requested the claim be dismissed.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Blair Allen, Esq. was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on December 9, 1991, by the Respondent Barrett Day Securities, Inc. and David Berger on February 3, 1992 and by Respondent Manny Feit on February 20, 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. Respondents, Barrett Day Securities, Inc. and Manny Feit are jointly and severally liable and shall pay to the Claimants, James & Lynn Chang the sum of \$2,187.50 in actual damages.
2. Respondents, Barrett Day Securities, Inc. and Manny Feit are jointly and severally liable and shall pay to the Claimant, Lynn Chang the sum of \$4,375.00 in actual damages.
3. The claims of Claimants James & Lynn Chang against Respondent, David Berger are dismissed.
4. The parties shall bear their respective costs.
5. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants James & Lynn Chang shall be retained by the NASD, Inc. Respondents, Barrett Day Securities, Inc. and Manny Feit are jointly and severally liable and shall pay to the Claimants the sum of \$150.00 as reimbursement.

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AFFIRMATION

I, Blair Allen, Esq., 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.

  
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Signature of Arbitrator

DATE OF DECISION: June 9, 1992

STATE OF New York

SS:

COUNTY OF New York

On this 9th day of June 1992, before me personally appeared BLAIR ALLEN known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he/she executed the same.

  
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MARK O. GLUT  
Notary Public, State of New York  
No. 4985190  
Qualified in Queens County  
Commission Expires April 20, 1994