

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

 In the Matter of the Arbitration Between :
 :
 Gerald Shidell :
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 Claimant :
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 vs. :
 :
 G.K. Scott & Co., Inc. :
 John Ashley :
 :
 Respondents :

CASE #92-00780
AWARD

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on March 4, 1992, Claimant, Gerald Shidell who appeared Pro Se, alleged that in March, 1989 he was referred to Respondent, John Ashley, account executive with Respondent, G.K. Scott & Co., Inc. by another client, Debra Burton and in their initial conversation Respondent, John Ashley indicated that he had picked nine stocks in a row that had gone up immediately after purchase, at which time, Respondent John Ashley recommended the purchase of First Agate Capital Corp. to Claimant because it was poised to do the same, and in fact, an announcement was coming soon on some acquisitions, therefore, Claimant should buy quickly. Claimant further alleged that since Respondent, G.K. Scott & Co., Inc. was making a market in the stock, he assumed that they had exercised due diligence in researching First Agate and the individuals behind it. Claimant contended that on March 29, 1989 Respondent John Ashley persuaded him to purchase 10,000 shares of First Agate Capital Corp. common stock for \$1,400.00 plus \$5.00 in costs, at which time, Respondent John Ashley discovered that Claimant resided in Wisconsin and indicated that he was not licensed to sell in that state. Claimant further contended that Respondent John Ashley suggested and insisted that they route Claimant's mail through Ms. Burton's Connecticut address, whereby, Claimant reluctantly signed the W-9 Taxpayer's Identification Number form showing his address as 150 Bagburn Road, Monroe, Connecticut. Claimant asserted that Respondent John Ashley informed him that he would be licensed in Wisconsin shortly, but that time was of the essence, therefore, they would route Claimant's mail to Connecticut. Claimant further asserted that almost immediately after his purchase, the stock sank out of sight and there never were nor have been any acquisitions. Claimant

argued that Respondent John Ashley misled him into the purchase of First Agate and sold it illegally, in addition to Respondent G.K. Scott & Co., Inc. exercising poor judgement in making a market for the stock, therefore, Respondents are liable for Claimant's loss.

Respondent, G.K. Scott & Co., Inc. by and through their Compliance Officer, Fred F. Cirillo, maintained that Claimant, Gerald Shidell contacted account executive Respondent John Ashley, introduced himself as a referral from a client of Respondent John Ashley by the name of Debbie Burton and all new account documentation and account application including a signed W-9, Payer's Registration for Taxpay Identification Number, reflected the legal address of Claimant to be 150 Bagburn Road, Monroe, Connecticut. Respondent G.K. Scott & Co., Inc. further contended that Respondent John Ashley presented to Claimant what he perceived to be a sound but highly speculative investment and on March 17, 1989 Claimant agreed to purchase 10,000 First Agate Capital Corp. at \$.14 per share, thereafter, these securities were delivered to Claimant on May 16, 1989. Respondent contended that Claimant is an investor with in excess of 15 years of investment experience as reflected in the Investment Profile portion of the New Account Form and that it is obvious that Claimant is attempting to recapture the loss from his own investment decision by alleging illegal activities.

Respondent, John Ashley failed to file an Answer to the Statement of Claim.

RELIEF REQUESTED

Claimant, Gerald Shidell requested \$1,405.00 in actual damages and the costs of filing the arbitration.

Respondent, G.K. Scott & Co., Inc. requested the claim be denied in its entirety and they be awarded costs of this proceeding.

Respondent, John Ashley failed to file an Answer to the Statement of Claim.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Charles L. Hickey, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on February 26, 1992, by the Respondent, G.K. Scott & Co., Inc. on May 27, 1992

and not signed by the Respondent, John Ashley as required by Sections 12 & 13 of the NASD Code of Arbitration Procedure.


1. In accordance with Section 13 of the NASD Code of Arbitration Procedure the Respondent, John Ashley was served a copy of the Statement of Claim by regular mail on April 10, 1992 and given an opportunity to respond, which he failed to do.
2. Pursuant to the By-Laws of the NASD the arbitrator determined that Respondent, John Ashley was required to submit to this arbitration proceeding and is, therefore, bound by the arbitrator's ruling and determination.

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, Gerald Shidell against Respondents, G.K. Scott & Co., Inc. and John Ashley are dismissed.
2. The parties shall bear their respective costs.
3. The \$50.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant, Gerald Shidell shall be retained by the NASD, Inc.

AFFIRMATION

I, **CHARLES L. HICKEY**, 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: August 13, 1992