

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Michael S. Belen

vs.

92-00816

Name of Respondent(s)

Marsh, Block & Co., Inc.

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on March 6, 1992. Claimant Michael S. Belen, who appeared Pro Se, alleged that on May 7, 1991 he purchased 500 shares of IABSF at \$2 5/8 per share and subsequently on November 25, 1991, Claimant placed a good-till-cancelled order with Respondent to sell his 500 shares of IABSF at \$5.00 per share. Claimant further alleged that on November 26, 1991 he changed the sell price of his order to \$4 1/4 per share, at which time, Respondent sold the IABSF shares at that price. Claimant contended that on December 6, 1991 Respondent inadvertently sold an additional 500 shares of IABSF for \$5.00 per share in Claimant's account when the shares had already been sold, thus, creating a debit balance in his account. Claimant further contended that Respondent sold out 300 shares of Lojack Corp. and 100 shares of Kerr Glass Mfg. Corp. in his account to cover the debit balance created by their error, thereby, causing Claimant to sustain losses.

Respondent Marsh, Block & Co., Inc., by and through Alfred G. Block, Chairman, maintained that on November 25, 1991 Claimant entered an unsolicited Good Till Cancelled ("GTC") order to sell 500 shares of International Absorbents, Inc. (IABSF) at \$5.00 per share. Respondent further maintained that the very next day, on November 26, 1991, he called to place an order to sell 500 shares of the same stock at 4 1/4, at which time, Claimant failed to notify the broker who executed the second order, that he already had entered a prior GTC order for the same stock. Respondent contended that on December 6, 1991, IABSF reached \$5.00 per share, and his original GTC order to sell was executed, at which time, Claimant received a confirmation of the trade and never contacted Respondent to notify them he was long only 500 shares. Respondent further contended that the stock kept going up, and to cover the short position they were forced to buy back the stock in Claimant's account on December 27, 1991

at \$7 1/2, thus creating a debit balance in Claimant's account whereby Claimant's unwillingness to satisfy the debit balance, forced Respondent to sell out 300 shares of Lojack Corp. and 100 shares of Kerr Glass Mfg. Corp. in his account in order to eliminate the debit.

RELIEF REQUESTED

Claimant Michael S. Belen requested \$1,443.75 in actual damages.

Respondent March, Block & Co. 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, Eugene J. McCabe, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on March 2, 1992 and by the Respondent on August 12, 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 claim of Claimant Michael S. Belen against Respondent March, Block & Co., Inc. is 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 Michael S. Belen shall be retained by the NASD, Inc.

AFFIRMATION

I, **EUGENE J. McCABE, 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.



Signature of Arbitrator

DATE OF DECISION: December 2, 1992

STATE OF: *New Jersey*

ss:

COUNTY OF: *Morristown*

On this _____ day of _____ 19____, before me personally appeared Eugene J. McCabe, 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.



ANNA GOCLIN
Notary Public of New Jersey
My Commission Expires July 19, 1994