

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

George F. Gilbert

92-01310

Name of Respondents

Janney Montgomery Scott Inc.  
Harold F. Fife

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**REPRESENTATION**

For Claimant George F. Gilbert ("Claimant"): Anthony J. Hom, Attorney at Law

For Respondents Janney Montgomery Scott, Inc. and Harold F. Fife (collectively referred to as "Respondents"): Elizabeth Hoop Fay, Esq. of the law firm of Morgan Lewis & Bockius

**CASE INFORMATION**

Statement of Claim filed: April 13, 1992

Amended Statement of Claim filed: November 11, 1992

Claimant's Submission Agreement signed on: April 7, 1992

Joint Statement of Answer filed by Respondent Janney Montgomery Scott, Inc. ("Janney") and Harold F. Fife ("Fife") on: June 4, 1992

Janney's Submission Agreement signed on: June 3, 1992

Fife's Submission Agreement signed on: June 30, 1992

**HEARING INFORMATION**

Hearing Dates/Sessions: February 11, 1993 - two sessions  
March 3, 1993 - one session

Hearing Location: Philadelphia, Pennsylvania

### **CASE SUMMARY**

Claimant alleged that, during the week of October 12, 1987, he placed an order to sell his shares of Royal Gold, Inc. ("Royal Gold") at \$15 a share. Claimant alleged that Respondents failed to execute his order. Claimant alleged that Janney permitted a few of its customers to sell Royal Gold, but that Respondents were unwilling to execute his orders and other customer orders at the Linwood office of Janney in a timely fashion. Claimant alleged because of Respondents wrongful conduct, Claimant suffered out of pocket losses.

Respondents denied the allegations of wrongful conduct asserted by the Claimant and specifically maintained that Claimant did not place an order with Fife, or with anyone else at Janney, to sell shares of Royal Gold stock at \$15 per share during the week of October 12, 1987. Janney denied that it acted to "manipulate" the market in Royal Gold, as alleged by Claimant, or to give preference to customers of offices other than Janney's Linwood Office. Respondents maintained that any losses suffered by Claimant on his investment of Royal Gold resulted from forces and events entirely outside of Janney's control.

### **RELIEF REQUESTED**

Claimant requested compensatory damages in the amount of \$70,625.00

Respondents requested that an award be entered in their favor and against Claimant.

### **OTHER ISSUES CONSIDERED & DECIDED**

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASD.

### **AWARD**

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claim is denied in its entirety.
2. The parties are to bear their respective costs except as provided for herein.

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**FORUM FEES**

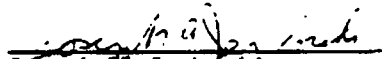
Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following forum fees are assessed.

Three hearing session were conducted in this matter at a cost of \$500 per hearing session. The amount chargeable as forum fees is \$1500. The Panel has determined that the forum fees shall be split equally between the Claimant and the Respondents. Claimant is assessed forum fees in the amount of \$750, but is entitled to offset this amount with his hearing session deposit of \$500, so that the amount due from the Claimant is \$250. Respondents are jointly and severally assessed forum fees in the amount of \$750.

Fees are payable to the National Association of Securities Dealers, Inc.

Concurring Arbitrators' Signatures  
Name

Public/Industry

  
Joseph H. Jezewski

Date of Decision: April 16th, 1993

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Concurring Arbitrators' Signatures

Name

Public/Industry

  
Lionel J. Goolet, Esq.

Date of Decision: April 16th, 1993

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Concurring Arbitrators' Signatures  
Name

Public/Industry

  
H. Payson Brickley

Date of Decision: April 6, 1993

NASD Date of Decision: April 16th, 1993