

PUBLIC

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Michael Averell

vs.

92-01481

Name of Respondent

MidAmerica Management Corp.

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on April 29, 1992, Claimant Michael Averell, who appeared Pro Se, alleged that Respondent MidAmerica Management Corp. failed to follow his order to sell 33,000 shares of Van Kampen Merritt Quality common stock at \$15 3/4 (all shares subject to a limit sale at \$15 1/4), and instead sold 8,100 shares at \$15 1/4, and without his authorization or approval, sold the remaining 24,900 shares at \$15. The Claimant further maintained that this unauthorized transaction caused a loss for which he should be compensated.

Respondent MidAmerica Management Corp. through it's representative, Gregory W. Theobold, maintained that there were no sales at the prices the Claimant wanted the stock sold at, so the transactions would not have occurred in the first place; therefore, he would have experienced the loss anyway. The Respondent further maintained that although it repeatedly offered to reinstate the stop limit order and make good on any transactions that should have occurred, the Claimant did not want the stock back and insisted on getting the \$15 1/4 price. The Respondent contended that this claim for damages is inappropriate, since the Claimant is requesting a transaction that would not have been executed on real markets.

RELIEF REQUESTED

Claimant Michael Averell requested \$6,250.00 in actual damages.

Respondent MidAmerica Management Corp. requested the claims of the Claimant be dismissed.

AWARD

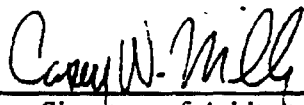
Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Casey W. Mills, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on April 24, 1992 and by the Respondent on July 13, 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 claims of the Claimant Michael Averell against Respondent MidAmerica Management Corp. are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc. Respondent MidAmerica Management Corp. is liable and shall pay \$75.00 to the Claimant as partial reimbursement of the filing fee.

AFFIRMATION

I, CASEY W. MILLS, 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 9, 1992