

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between :

John J. Killeen :

Claimant :

vs. :

First American Biltmore Securities, Inc. :

Respondent :

CASE #92-01677
AWARD

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on May 19, 1992, Claimant John J. Killeen, who appeared Pro Se, alleged that Respondent First American Biltmore Securities, Inc. failed to follow his written instructions to sell 4,000 shares of Supermail, Inc. when the price dropped below \$2.05 a share, and that although he attempted to call the firm to confirm the sale had been executed, they avoided his calls. The Claimant further alleged that he was told by the Respondent that nothing could be done to correct the error and that his written requests for compensation have been ignored. The Claimant contended that when he reviewed his statement he found that fewer shares were purchased for him than the 4,000 he requested, due to a "principal sale" which was never explained to him.

Respondent First American Biltmore Securities, Inc., through its president, J. Gordon Nevers, maintained that they have no records of any instructions to sell the stock, nor the fax the Claimant says he sent, nor is the Respondent aware of the conversations that took place between its brokers and the Claimant. The Respondent maintained that, as a firm, it has not erred and should not be held liable in this matter.

RELIEF REQUESTED

Claimant John J. Killeen requested \$4,669.00 in actual damages.

Respondent First American Biltmore Securities, Inc. requested the claims of the Claimant be dismissed.

AWARD

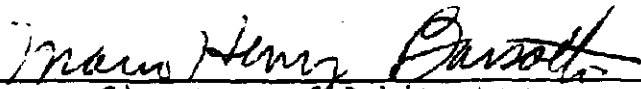
Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Mario Henry Barsotti, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on June 1, 1992 and by the Respondent on June 18, 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 John J. Killeen against Respondent First American Biltmore Securities, Inc. are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. The \$125.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc.

AFFIRMATION

I, **MARIO HENRY BARSOTTI**, 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: November 10, 1992