

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Jeffrey G. Acton

vs.

92-01939

Name of Respondents

Edward W. Bohm
Robert Shaw
Pacific Southern Securities

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on June 10, 1992, Claimant Jeffrey G. Acton, who appeared Pro Se, alleged that Respondent Pacific Southern Securities, through its representative, Respondent Edward W. Bohm, sold his shares of Find SVP, Inc. stock without authorization or approval. The Claimant further alleged that although Respondent Robert Shaw of the firm agreed to settle the dispute, he reneged on the offer. The Claimant contended that this unauthorized sale has caused a loss for which he should be compensated.

Respondent Pacific Southern Securities, Inc., through its representative, Gerald M. Schechter, maintained that it fulfilled all of its functions in obtaining the best price for the Claimant and that its broker, Respondent Edward W. Bohm stated that he believed the Claimant requested all the shares sold. The Respondent contended that it should not bear financial responsibility, since all liability would have been with the franchise of Pacific Southern Securities, who would have the ultimate responsibility if any wrongdoing took place.

Respondent Robert Shaw, through his counsel, Edwin J. Wilson, Esq. of Stone Mountain, GA, maintained that he did not offer any type of settlement to the Claimant, nor did he have any responsibility regarding the securities transactions in question. The Respondent further maintained that this claim is without merit.

Respondent Edward W. Bohm failed to file an Answer to the Statement of Claim.

RELIEF REQUESTED

Claimant seeks an Award of \$22,233.50 in punitive damages, plus \$5,000.00 in attorney's fees.

Respondent Pacific Southern Securities requested the claims of the Claimant be dismissed.

Respondent Robert Shaw requested the claims of the Claimant be dismissed and that he be awarded attorney's fees.

Respondent Edward Bohm failed to file an Answer to the Statement of Claim.

OTHER ISSUES

1. In accordance with Section 13 of the NASD Code of Arbitration Procedure, the Respondent Edward Bohm was served a copy of the claim by regular mail 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 Edward Bohm, having notice of the claim, was required to submit to this arbitration proceeding and is, therefore, bound to the arbitrator's ruling and determination.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Thomas C. McNally, III, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on May 22, 1992, by the Respondent Pacific Southern Securities on July 31, 1992 and by Respondent Robert Shaw on July 6, 1992, but was not signed by Respondent Edward W. Bohm as required by Sections 12 & 13 of the NASD Code of Arbitration Procedure.

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. Respondent Pacific Southern Securities and Edward W. Bohm are jointly and severally liable and shall pay to Claimant Jeffrey G. Acton \$3,827.50 in actual damages.
2. The claims of Claimant Jeffrey G. Acton against Respondent Robert Shaw are dismissed in their entirety.
3. The Claimant's request for punitive damages is denied.
4. The parties shall bear their respective costs and attorney's fees.
5. 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. Respondents Pacific Southern Securities and Edward W. Bohm are jointly and severally liable and shall pay \$150.00 to the Claimant as reimbursement.

AFFIRMATION

I, THOMAS C. McNALLY, III, 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:

January 21, 1993