

N.A.S.D. AWARD
NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Empire Financial Group, Inc.

Case No. 92-02425

Name of Respondent(s)

S. Dale Trude

REPRESENTATION

For Claimant, Empire Financial Group, Inc. ("Empire"): Richard L. Goble & Kevin M. Gagne, C.E.O. of Empire Financial Group, Inc.

For Respondent, S. Dale Trude ("Trude"): Dan W. Moses, Esq.

CASE INFORMATION

Statement of Claim filed: July 22, 1992. Claimant's Submission Agreement signed: July 1, 1992.

Respondent's Statement of Answer filed: December 9, 1992. Respondent did not sign a Submission Agreement (see Other Issues).

HEARING INFORMATION

On August 19, 1993, in Fort Lauderdale, Florida, a hearing lasting one (1) session was conducted.

CASE SUMMARY

Claimant alleged that on April 1, 1992, Respondent, Trude, called Empire and placed a buy order for 5000 common shares of Home Shipping Network stock, at market, at \$7.50 per share. Claimant alleged that thereafter, despite numerous attempts to obtain payment from Respondent for the trade, Respondent refused

to pay for the trade. Claimant contended that Respondent conspired to defraud Empire and its employees by speculating on a stock without any intent of paying for the stock and that as a result of Respondent's actions Claimant has suffered a substantial loss.

Respondent denied all allegations of wrongdoing and alleged that the purchase of the 5000 shares of Home Shipping Network was unauthorized and that Claimant used cohesive tactics to get Respondent to issue a check to pay for the purchase. Respondent maintained that Claimant is attempting to recoup funds it lost as a result of an unauthorized trade and that Claimant's actions are an attempt to shift the onus of responsibility from broker to the client.

RELIEF REQUESTED

Claimant requested an Award of \$8,987.13 not including legal expenses and interest.

Respondent requested dismissal of the claim.

OTHER ISSUES CONSIDERED & DECIDED

1. Respondent, Trude, did not submit an executed Submission Agreement but jurisdiction exists with respect to Trude pursuant to Section 12 of the NASD Code of Arbitration Procedure.

2. The parties have agreed that a handwritten, signed Award may be entered. In this case, the parties have agreed to receive a conformed copy of the Award while the original remains on file with the NASD.

AWARD

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

1. Respondent S. Dale Trude is found liable and shall pay to the Claimant the amount of \$7,603.03, plus interest at the legal rate of 12% per annum from April 1, 1992 to August 19, 1993 in the amount of \$1,264.63 for a total due to the Claimant of \$8,867.66.

Claimant's request for attorney's fees is denied.

OTHER COSTS

The parties shall each bear all costs and expenses incurred by them in connection with this proceeding including attorney's fees.

FORUM FEES


Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Arbitrator has assessed forum fees in the amount of \$300.00 (one hearing session x \$300.00 per session).

Respondent is hereby assessed \$300.00 payable to the National Association of Securities Dealers, Inc.

The NASD shall retain the non-refundable filing fee of \$500.00 paid by the Claimant.

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

Arbitrator's Signature


Jacob I. Levine

Public

Date of Decision: Oct. 5, 1993