

PUBLIC

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimants

Blase K. Sacus & Patricia Sacus

92-02494

Name of Respondents

Thomas James Associates, Inc.  
Thomas Morton

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CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on July 29, 1992, Claimants Blase K. and Patricia Sacus, who appeared Pro Se, alleged that in July 1990 Claimant Blase K. Sacus opened a joint account at Respondent Thomas James Associates, Inc. and subsequently Respondent Thomas Morton, Account Executive had later acquired the account whereby he dealt exclusively with Claimant Blase K. Sacus. Claimants further alleged that on or about January 18, 1991, Claimant Blase K. Sacus agreed to purchase 2,500 Acqua Group, Inc. warrants at \$1.97 from Respondent Thomas Morton, at which time, Claimant Blase K. Sacus indicated that his objective was to make 40-50% and get out whereby Claimant Blase K. Sacus stated that if the price rose much above \$3.00, he wanted it sold immediately. Claimants contended that the price did go over \$3.00, but by mid-March, it was trading down again. Claimants further contended that on March 15, 18 and 19, 1991, Claimant Blase K. Sacus called Respondent Thomas Morton's office and left messages to have him call, but Respondent Thomas Morton never returned the calls. Claimants asserted that on March 21, 1991, at approximately 9:00 a.m., Claimant Blase K. Sacus spoke to Respondent Thomas Morton to instruct him to sell the Acqua Group, Inc. warrants and send him the check for the proceeds. Claimants further asserted that on March 26, 1991, Respondent Thomas Morton called to inform them that he would be sending the certificates, at which time, Claimant Blase K. Sacus told him they did not want the certificates and had previously asked that the warrants be sold on March 21, 1991. Claimants argued that they later received a confirmation that the stock was sold on March 26, 1991 and not on March 21, 1991, as instructed. Claimants further argued that Respondent Thomas Morton failed to follow their instructions and Respondent Thomas James Associates, Inc. failure to supervise caused them to incur losses whereby Claimants should receive the difference in value on the day they issued the sell order and the day it was finally sold.

Respondent Thomas James Associates, Inc. by and through their in-house counsel, Michael S. Smith, Esq., maintained that Claimants Blase K. and Patricia Sacus opened an account in July 1990 and on December 17, 1990 Claimant Blase K. Sacus purchased 300 shares of Acqua Group, Inc. common stock whereby the Claimants failed to pay for the trade by the settlement date, so it was cancelled on December 27, 1990. Respondent Thomas James & Associates, Inc. further maintained that Claimant Blase K. Sacus became very irate as a result of such cancellation and a few days later, Respondent Thomas Morton telephoned Claimant Blase K. Sacus in an effort to repair their relationship, at which time, Respondent Thomas Morton recommended that Claimants purchase 2,500 Acqua Group, Inc. warrants whereby the transaction was executed on January 21, 1991. Respondent Thomas James Associates, Inc. contended that on March 20, 1991 Respondent Thomas Morton received a call from Claimant Blase K. Sacus which he did not return that day but on the following day, Claimant Blase K. Sacus called again and spoke to Respondent Thomas Morton, at which time, Respondent Thomas Morton explained he was in a meeting and would call him back. Respondent Thomas James Associates, Inc. further contended that Respondent Thomas Morton called back Claimant Blase K. Sacus to update him on the Acqua Group, Inc. whereby the conversation ended with Claimant Blase K. Sacus agreeing to hold the warrants a while longer. Respondent Thomas James Associates, Inc. asserted that on March 26, 1991 Claimant Blase K. Sacus telephoned Respondent Thomas Morton to demand the warrants be sold and the order was executed immediately. Respondent Thomas James Associates, Inc. further asserted that in April 1991, Claimants submitted a complaint to their Compliance Department alleging that Respondent Thomas Morton failed to execute their sell order on March 21, 1991 but instead delayed executing until March 26, 1991, by which time, the price had fallen whereby the Compliance Department investigated this allegation and concluded it had no merit. Respondent Thomas James Associates, Inc. argued that the NASD commenced an investigation of Claimants' allegations and determined that no action was warranted, thus, the claim should be dismissed.

Respondent Thomas Morton, who appeared Pro Se, maintained that Claimants Blase K. and Patricia Sacus opened an account with Respondent Thomas James Associates, Inc. in July 1990 and in April 1991, Claimants submitted a complaint to Respondent Thomas James Associates, Inc. Compliance Department alleging that he failed to execute an unsolicited sell of Acqua Group, Inc. common stock purchase warrants on March 21, 1991 but instead delayed executing the transaction until March 26, 1991, by which time the price of the warrants had fallen. Respondent Thomas Morton further maintained that Respondent Thomas James Associates, Inc. investigated the allegations and concluded that it had no merit. Respondent Thomas Morton contended that the NASD commenced an investigation of Claimants' allegations and in a July 15, 1992 letter the NASD stated that "we have reviewed the report of this investigation and determined no action is warranted regarding the activities of your firm and Thomas Morton in connection with the Association's investigation of this customer complaint". therefore, the claim should be dismissed.

### **RELIEF REQUESTED**

Claimants Blase K. and Patricia Sacus requested \$1,500.00 in actual damages and reimbursement of the NASD filing fees.

Respondent Thomas James Associates, Inc. requested the claim be dismissed in it's entirety.

Respondent Thomas Morton requested the claim be dismissed.

### **AWARD**


Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Paul T. Green, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on August 15, 1992, by the Respondent Thomas James Associates, Inc. on January 4, 1993 and by the Respondent Thomas Morton on January 27, 1993.

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 Claimants Blase K. and Patricia Sacus against Respondents Thomas James Associates, Inc. and Thomas Morton are dismissed.
2. The parties shall bear their respective costs.
3. The \$50.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants Blase K. and Patricia Sacus shall be retained by the NASD, Inc.

**AFFIRMATION**

I, **PAUL T. GREEN**, 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.

  
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Signature of Arbitrator

DATE OF DECISION: April 20, 1993

STATE OF: Connecticut

ss: Fairfield

COUNTY OF: Fairfield

On this 6 day of April, 19 93, before me personally appeared Paul T. Green to me known and known before me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

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My Commission Expires 12.31.1998