

PUBLIC

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Gregory R. Gibson, Custodian for
Eric P. Gibson U/MAS/GTM

92-03146

Name of Respondent

Josephthal Lyon & Ross, Inc.

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on September 18, 1992, Claimant Gregory R. Gibson, Custodian for Eric P. Gibson, who appeared Pro Se, alleged that Respondent Josephthal Lyon & Ross, Inc. made an error in his account when it incorrectly delivered odd lots of Genentech stock to him, and then debited 10 shares of the stock from his account.

Respondent Josephthal Lyon & Ross, Inc., through it's in-house counsel, Donald V. Hanson, Esq., maintained that there are a total of 15 shares of Genentech stock registered in the Claimant's name and that he either lost the 15 shares and the check sent to him, or they were lost in the mail. The Respondent also maintained that the Claimant need only to contact the transfer agent for a replacement certificate and check, and that he has not suffered any damages as the result of any action or failure to act by the Respondent. The Respondent contended that the Claimant has named the wrong firm as a Respondent, and therefore it should be dismissed from this matter.

RELIEF REQUESTED

Claimant Gregory R. Gibson, Custodian for Eric P. Gibson requested \$680.00 in actual damages, plus treble damages.

Respondent Josephthal Lyon & Ross, Inc. requested that it be dismissed from this proceeding on the grounds that it is not the proper Respondent and that the Claimant has not suffered any damages.

AWARD

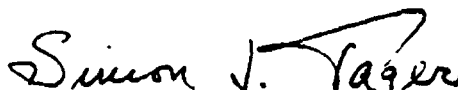
Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Simon J. Tager, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on September 9, 1992 and by the Respondent on November 12, 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. Respondent Josephthal Lyon & Ross, Inc. is liable and shall pay to Claimant Gregory R. Gibson, Custodian for Eric P. Gibson \$400.00 in actual damages.
2. The Claimant's request for treble damages is denied.
3. The parties shall bear their respective costs.
4. 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. Respondent Josephthal Lyon & Ross, Inc. is liable and shall pay to the Claimant \$125.00 as reimbursement of the fee.

AFFIRMATION

I, **SIMON J. TAGER**, 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: March 9, 1993