

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

William M. Collins and Carol T. Collins

92-03343

Name of Respondent

J.W. Gant & Associates Inc.

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on October 5, 1992, Claimants William M. and Carol T. Collins, who appeared Pro Se, alleged that in March, 1992, they purchased 1,000 shares of stock of the Beverly Hills Fan Co. through Respondent J.W. Gant & Associates, Inc. and subsequent to this purchase, the stock began to fall in value whereby on June 24, 1992 it was trading for about \$1.50. Claimants further alleged that they contacted Respondent by and through Mr. Don Brooks to inquire about the decline in value of this stock, at which time, Mr. Brooks assured them there was nothing wrong with the Beverly Hills company, but that the problem stemmed from some financial difficulties at Respondent and that these difficulties had been resolved. Claimants contended that on June 24, 1992 Respondent by and through Mr. Brooks advised them to buy another 1,000 shares of common stock of Beverly Hills Fan at \$1.50, at which time, Claimants authorized him to do so and subsequently mailed a check for the purchase. Claimants further contended that they received a letter from their former broker at Respondent who sold the original shares whereby he included a copy of an article regarding the problems at Respondent which stated that the NASD had barred them from trading from the period of June 24 through August 7, 1992, at which time, Claimants contacted Respondent to inquire about his purchase executed on June 24. Claimants asserted that on the advice of Mr. Brooks they immediately placed a stop payment on the check issued to Respondent. Claimants further asserted that in July they were advised by Respondent that their account had been transferred to Hanifen, Imhoff, Inc., at which time, Claimants initiated the paperwork necessary to transfer their account and were advised that the account could not be transferred until the balance of \$616.05, resulting from a sellout for non-payment resulting from the stop payment, was paid, at which time, Claimants elected to remit the \$616.05. Claimants argued that Respondent is responsible for their losses incurred due to this confusion.

Respondent J.W. Gant & Associates, Inc. failed to file an Answer to the Statement of Claim.

RELIEF REQUESTED

Claimants William M. and Carol T. Collins requested \$616.05 in actual damages.

Respondent J.W. Gant & Associates, Inc. failed to file an Answer to the Statement of Claim.

OTHER ISSUES CONSIDERED & DECIDED

In accordance with Section 13 of the NASD Code of Arbitration Procedure, the Respondent J.W. Gant & Associates, Inc. was served a copy of the Statement of Claim by regular mail on October 20, 1992 and given an opportunity to respond, which they failed to do. Respondent J.W. Gant & Associates, Inc. was notified, via certified mail, on November 18, 1992 that their Statement of Answer was overdue. The signed certified mail receipt was returned to the NASD dated November 24, 1992, evidencing their receipt to this correspondence. Respondent J.W. Gant & Associates, Inc. failed to file an Answer to the Statement of Claim.

Pursuant to the By-Laws of the NASD the arbitrator determined that Respondent J.W. Gant & Associates, Inc. was required to submit to this arbitration proceeding and is, therefore, bound by 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, Joe B. Abbey, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on October 15, 1992 and not signed by the Respondent 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 J.W. Gant & Associates, Inc. is liable and shall pay to the Claimants William M. and Carol T. Collins the sum of \$616.05 in damages.

2. The parties shall bear their respective costs.
3. The \$30.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants William M. and Carol T. Collins shall be retained by the NASD, Inc. Respondent J.W. Gant & Associates, Inc. is liable and shall pay to the Claimants the sum of \$30.00 as reimbursement.

AFFIRMATION

I, JOE B. ABBEY, ESQ., 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: May 18, 1993