

PUBLIC

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

James G. and Janis L. Zook

92-03614

Name of Respondent

J.W. Gant and Associates, Inc.

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on October 26, 1992, Claimants James G. and Janis L. Zook, who appeared Pro Se, alleged that on May 6, 1992 they opened an account with Respondent J.W. Gant & Associates, Inc. by purchasing 2,000 shares of Beverly Hills Fan Co. stock at \$2.23 per share for a total of \$4,485.00. Claimants further alleged that when they received their statement at the end of May they noticed that the value of the stock dropped to \$1.62 per share. Claimants contended that when Claimant James G. Zook returned to work on June 22, 1992 after his vacation he was contacted by Richard Balber of Respondent's Boca Raton, Florida office whereby Mr. Balber informed Claimant James G. Zook that the stock was now worth \$1.2125 and stated that he thought that this was a bad investment and that Claimants should sell the stock and buy United States Technologies. Claimants further contended that they gave Mr. Balber permission to sell the Beverly Hills Fan Co. stock and purchase 2,500 shares of the United States Technologies stock, whereby, Mr. Balber stated that he would call back and let Claimants know what the cash difference was so that Claimants could send a check for remittance. Claimants asserted that when they did not hear from Mr. Balber by June 26, 1992 they called Mr. Balber's office but there was no answer, whereby Claimants thought they would wait for the trade confirmation slips to see what the status of the account was. Claimant further asserted that on June 30, 1992 they received three trade confirmations from Respondent which were the sale of 2,000 shares of Beverly Hills Fan Co. for \$2,400.00; a purchase of 2,500 shares of U.S. Technologies for \$2,975.00; and a cancellation of the U.S. Technologies purchase. Claimants argued that Respondent went out of business at midnight on June 22, 1992. Claimants further argued that they were contacted by Mark White, their initial broker at Respondent, who offered to try to check the status of their account. Claimants further alleged that on the day they received a confirmation/comparison slip from Hanifen, Imhoff, Inc.

showing that 1,700 shares of U.S. Technologies had been sold for \$850.00 as a sellout non-payment, and on July 13, 1992 they received another confirmation/comparison slip from Hanifen. Imhoff showing that 800 additional shares of U.S. Technologies had been sold for \$450.00 as sell out and their account balance was \$162.00. Claimants further asserted that due to the inappropriate handling of their account, they incurred losses in their account.

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

RELIEF REQUESTED

Claimants James G. and Janis L. Zook requested \$2,400.00 in actual damages and costs.

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 November 24, 1992 and given an opportunity to respond, which they failed to do. 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, Paul H. McKenna, 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 14, 1992 and not by the Respondent as required by Sections 12 & 13 of the NASD Code of Arbitration Procedure.

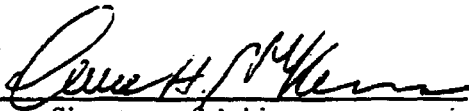
And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Respondent J.W. Gant & Associates, Inc. is liable and shall pay to the Claimants James G. and Janis L. Zook the sum of \$2,085.00 in damages.

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 James G. and Janis L. Zook shall be retained by the NASD, Inc. Respondent J.W. Gant & Associates, Inc. is liable and shall pay to the Claimants the sum of \$50.00 as reimbursement.

AFFIRMATION

I, **PAUL H. MCKENNA**, 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: June 8, 1993