

## N.A.S.D. AWARD

## NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

M.S. Farrell & Co., Inc.

93-00469

Name of Respondents

Stanley Galka  
Krakus Realty Corporation

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CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on February 9, 1993, Claimant M.S. Farrell & Co., Inc., by and through their in-house counsel James L. Rothenberg, Esq. alleged that John Banks, a registered representative at Claimant telephoned Respondent Stanley M. Galka on November 2, 1992 to solicit the purchase of an initial public offering, Gotham Apparel Corporation ("Gotham") whereby Respondent Stanley M. Galka agreed to purchase 500 shares in his personal account and on November 4, 1992 Mr. Banks telephoned Respondent Stanley M. Galka to advise him that he was allocated only 100 shares at 4 1/2 because of heavy demand. Claimant further alleged that on November 13, 1992 Respondent Stanley M. Galka paid by check \$450.00 for this initial purchase and on November 4, 1992 Respondents had previously agreed to purchase 2,000 shares of Gotham in the aftermarket whereby, a limit purchase order to buy 2,000 shares at \$6.00 was placed for Respondent Stanley M. Galka; however, the limit buy order was canceled when Gotham advanced to \$7.00 a share. Respondent contended Mr. Banks contacted Respondent Stanley M. Galka on November 9, 1992 about an "insider" tracking service Claimant was using to track the purchases to officers, directors, and 10% shareholders of their own securities whereby Respondent Stanley M. Galka was extremely receptive to this idea and told Mr. Banks not to forget calling him with the next security that appeared on the insider service. Claimant further contended that on November 17, 1992 Mr. Banks advised Respondents that the corporate insider service had generated the name of Telebit Corporation ("TBIT") whereby Respondents decided to purchase 5,000 shares in the corporate account but said they did not want to tie up that much cash and would prefer to do the trade on margin, at which time, Respondents sent a check for payment and supplied the proper papers to trade on margin. Claimant asserted that Respondent Stanley M. Galka stopped

payment on the check because of a dispute over commissions whereby Mr. Banks assured Respondents that only 1/8 commission was charged and that unless Respondents were prepared to pay immediately because under Regulation T the time for payment had expired, Claimant would have to liquidate the position pursuant to federal requirements, at which time, Respondents stated that they would not pay for the trade. Claimant further asserted that accordingly they sold TBIT at 5 1/4 for a loss of \$7,561.00 inclusive of ticket and clearing charged and Respondents have failed to remit these funds although duly demanded.

Respondents Krakus Reality Corporation and Stanley M. Galka, by and through Stanley M. Galka, President, maintained that in about January, 1993 Respondent Stanley M. Galka received several telephone calls from the unknown representative from Claimant M.S. Farrell & Co., Inc. soliciting a security based upon insider information whereby Claimant's representative was bragging that he had knowledge of a new IPO company where 10 directors bought 100,000 shares, at which time, Claimant's representative desperately wanted Respondents to purchase those shares. Respondents further maintained that Claimant's representative informed them that Claimant was the maker in this issue and that Respondents would make a killing on this issue, at which time, Respondents finally agreed that they would take 500 shares at the initial price of \$4.50 per share whereby Respondents received an invoice for 100 SHS with a bill of \$450.00. Respondents contended that they paid for the security but Claimant never delivered the Gotham Apparel certificates and to date have failed to deliver them, thus the claim should be denied and Claimant should reimburse the funds.

#### **RELIEF REQUESTED**

Claimant M.S. Farrell & Co., Inc. requested \$7,561.00 in actual damages together with \$2,500.00 in legal costs and reimbursement of the NASD filing fee.

Respondents Krakus Reality Corporation and Stanley M. Galka requested the claim be denied.

#### **AWARD**

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Jerome Goodgal, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on February 5, 1993 and not by the Respondents 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. Respondents Krakus Reality Corporation and Stanley M. Galka are jointly and severally liable and shall pay to the Claimant M.S. Farrell & Co., Inc. the sum of \$7,561.00 in damages whereby Claimant M.S. Farrell & Co., Inc. will return 100 shares of Gotham Apparel to Respondents Krakus Reality Corporation and Stanley M. Galka.
2. The parties shall bear their respective costs, including legal fees.
3. The \$575.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant M.S. Farrell & Co., Inc. shall be retained by the NASD, Inc. Respondents Krakus Reality Corporation and Stanley M. Galka are jointly and severally liable and shall pay to the Claimant the sum of \$287.50, as partial reimbursement.

**AFFIRMATION**

I, JEROME GOODGAL, 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.

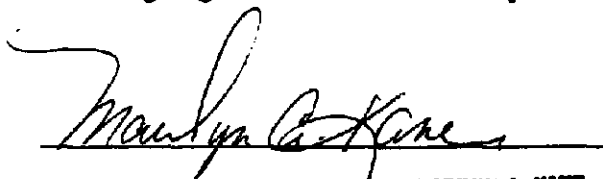
  
Signature of Arbitrator

DATE OF DECISION: July 29, 1993

STATE OF: NEW JERSEY

SS:  
COUNTY OF: PASSAIC

On this 26th day of July 19 93, before me personally appeared Jerome Goodgal 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.



MYRLYN A. KANE  
NOTARY PUBLIC OF NEW JERSEY  
MY COMMISSION EXPIRES OCTOBER 25, 1995