

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Louis G. Marchman and L. Kamau Marchman

93-01811

Name of Respondents

Darwin K. Yarborough
Alfredrick Williams

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on May 5, 1993, Claimants Louis G. & L. Kamau Marchman, who appeared Pro Se, alleged that Respondent Alfredrick Williams, formerly employed by Waddell & Reed, Inc., allowed the withdrawal of funds from their customer account, without their authorization or knowledge, and also forged request letters in order to remove these funds. The Claimants further alleged that Respondent Darwin K. Yarborough, who was the office branch manager, not only allowed these unlawful activities to occur by an employee, he also gave them the "run around" before telling them their claim was unworthy.

Respondent Darwin K. Yarborough, who represented himself, maintained that the two withdrawals in question were not processed through his branch, but rather through Waddell & Reed Services Company, the United Funds' transfer agent. The Respondent further maintained that the firm who handled the transactions might be responsible if the Claimants' allegations are correct, but he had nothing to do with these transactions, nor did he supervise Respondent Williams over these transactions.

Respondent Alfredrick Williams failed to file an Answer to the Statement of Claim.

RELIEF REQUESTED

Claimants Louis G. & L. Kamau Marchman requested \$4,140.00 in actual damages, plus return of the NASD filing fee.

Respondent Darwin K. Yarborough requested that the claims of the Claimant be dismissed.

Respondent Alfredrick Williams failed to file an Answer to the Statement of Claim.

OTHER ISSUES CONSIDERED & DECIDED

1. In accordance with Section 13 of the NASD Code of Arbitration Procedure, the Respondent Alfredrick Williams was served a copy of the Statement of Claim by regular mail and given an opportunity to respond, which he failed to do. Although reasonable attempts were made at serving a second copy of the claim and notification of the arbitrator's identity, via certified mail, the packages were returned "unclaimed".
2. Pursuant to the By-Laws of the NASD the arbitrator determined that Respondent Alfredrick Williams was required to submit to this arbitration proceeding and is, therefore, bound by the arbitrator's ruling and determination.
3. The arbitrator who presided over this matter has not considered any claims against Waddell & Reed, Inc. with respect to reinvestment of the funds that are subject of this arbitration claim as no such claim was brought before the arbitrator to consider.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Robert P. Bramnik, 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 28, 1992, by the Respondent Darwin K. Yarborough on August 6, 1993, but not signed by Respondent Alfredrick Williams 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. The claims of the Claimants Louis G. & L. Kamau Marchman against Respondent Darwin K. Yarborough are dismissed in their entirety.
2. The claims of the Claimants Louis G. & L. Kamau Marchman against Respondent Alfredrick Williams are dismissed without prejudice and left to remedies at law.

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 Claimants shall be retained by the NASD, Inc.

AFFIRMATION

I, **ROBERT P. BRAMNIK**, 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.

A handwritten signature in cursive script, reading "Robert P. Bramnik", written over a horizontal line.

Signature of Arbitrator

DATE OF DECISION: January 25, 1994