

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

William H. Long Trustee/W.L. Trust

93-01863

Name of Respondent

First National Brokerage Services

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on May 10, 1993, Claimant William H. Long, who appeared Pro Se, alleged that Respondent First National Brokerage Services failed to notify him of a rights offering regarding REVCO D.S. Inc. on a timely basis, therefore allowing the rights to expire, causing a loss to the Claimant. The Claimant further alleged that the Respondent stated it was not their responsibility to inform him, since it had transferred his shares into streetname, but that the responsibility was theirs, and he should be compensated for the loss he has incurred.

Respondent First National Brokerage Services, through its in-house representative Mary K. Fay, VP, maintained that all shares for all customers are held in streetname, and held at a national depository for the customer's account. The Respondent also maintained that the notification of the offer was being prepared by ADP Proxy Services and mailed on January 8, 1993, and also appeared in the Wall Street Journal on December 17, 1992. In an amendment to the answer, the Respondent contended that since ADP Proxy Services mailed the rights offering material on January 8, 1993, it should have been received by the Claimant in time for the offer, but it cannot be held responsible for unusual delays in the postal service, and contended further that the Claimant cannot provide proof that the postmark was not January 8, 1993. Respondent First National Brokerage Services requested it not be held liable in this matter, since it committed no wrong.

RELIEF REQUESTED

Claimant William H. Long, TTEE, FBO, William H. Long Trust requested \$2,911.00 in actual damages.

Respondent First National Brokerage Services requested that the claims of the Claimant be dismissed.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Paul A. Grana, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on May 21, 1993 and by the Respondent on June 30, 1993.

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 First National Brokerage Services is liable and shall pay to the Claimant William H. Long FBO, William H. Long Trust \$1,486.25 in actual damages.
2. The parties shall bear their respective costs.
3. 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 First Brokerage Services is liable and shall pay \$125.00 to the Claimant as reimbursement.

AFFIRMATION

I, PAUL A. GRANA, 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: October 22, 1993