

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

James M. Morris

93-03461

Name of Respondent/Third Party Claimant

F.N. Wolf & Co., Inc.

Name of Third Party Respondent

John McGuire

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on September 10, 1993, Claimant James M. Morris, who appeared Pro Se, alleged that he purchased 1000 shares of NACOMA CONS. INDUSTRIES, INC. ("NACOMA") common stock from Respondent F. N. Wolf & Co., Inc. Claimant further alleged that Respondent F. N. Wolf & Co., Inc, through its stockbroker, Third Party Respondent John McGuire, represented to Claimant that the NACOMA common stock would be listed on the NASDAQ exchange within two weeks, and that the company had a huge backlog of orders, when both of these statements were untrue. The Claimant contended that as a result of these occurrences, he has suffered damages for which the Respondent should be held liable.

Respondent F. N. Wolf & Co., Inc., through its counsel John R. Erickson and Arthur G. Wyatt, Washington D.C., maintained that Claimant, throughout the term of his ownership of NACOMA common stock, received account statements from Respondent which showed the continuing decline in the value of this investment. Respondent further maintained that throughout the three years Claimant had contact with Respondent, Claimant never complained to anyone at Respondent about any type of misrepresentation with respect to this stock.

Respondent contended that it was without knowledge or information sufficient to form a belief as to the truth of the allegation of misrepresentation, or whether Claimant actually relied on the alleged misrepresentations in purchasing the NACOMA common stock, so it denied the Claimant's assertions. In its Third Party Claim for Contribution against Third Party Respondent John McGuire, Respondent alleged that Claimant's Statement of Claim seeks to hold Respondent liable for conduct attributable to Third Party Respondent during Third Party Respondent's association with Respondent. Respondent further alleged that if the misrepresentations were made by Third Party Respondent to Claimant, Third Party Respondent was acting alone and not at the direction of Respondent. As a result of the above, Respondent maintained that it should not be held liable in this matter, or if it is held liable to Claimant for all or part of the loss he may have sustained as a result of Third Party Respondent's action, then Third Party Respondent should be liable to Respondent for contribution and/or indemnification for all such loss and damage.

Third Party Respondent John McGuire, who appeared Pro Se, maintained that all information he gave to Claimant regarding the NACOMA stock came from Respondent. Third Party Respondent further maintained that Respondent, by filing this Third Party Claim, is trying to harass Third Party Respondent since he ceased his employment with Respondent and transferred many of his accounts to his present employer. As a result of the above, Third Party Respondent contended that he should not be held liable in this matter.

RELIEF REQUESTED

Claimant James M. Morris requested \$3,389.63 in actual damages, \$779.37 in interest, and \$125.00 in costs.

Respondent F. N. Wolf & Co., Inc. requested that the claims of the Claimant be dismissed, or if it is held liable to Claimant for all or part of the loss he might of sustained as a result of Third Party Respondent's action, then Third Party Respondent should be held liable to Respondent for contribution and/or indemnification for all such loss and damage.

Third Party Respondent John McGuire requested that the Third Party Claim of Respondent be dismissed.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single public arbitrator, John A. Selman, 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 October 5, 1993, by the Respondent on November 30, 1993, and by Third Party Respondent on March 1, 1994.


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 F. N. Wolf & Co., Inc. is liable and shall pay to Claimant James M. Morris \$3,389.63 in actual damages.
2. Respondent F. N. Wolf & Co., Inc. is liable and shall pay to Claimant James M. Morris simple interest at the rate of 10% per annum from August 20, 1993 to the date of payment of the award.
3. The Third Party Claim of F.N. Wolf & Co. against Third Party Respondent John McGuire is dismissed in its entirety.
4. The parties shall bear their respective costs.
5. 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 F. N. Wolf & Co., Inc. is liable and shall pay to Claimant James M. Morris \$125.00 as reimbursement of the filing fee. In addition, the \$575.00 filing fee previously deposited with the NASD, Inc. by Respondent F. N. Wolf & Co., Inc. shall be retained by the NASD, Inc.

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AFFIRMATION

I, **JOHN A. SELMAN, ESQ.**, do hereby affirm upon my oath of 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 30, 1994