

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

David R. Court

93-03692

Name of Respondents

J.W. Barclay & Co., Inc.
Michael J. Wills
Frederick J. Rochelle

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on September 17, 1993, Claimant David R. Court, who appeared Pro Se, alleged that Respondent Fred Rochelle, who was a former broker of Respondent, J.W. Barclay & Co., Inc., sold Claimant's 1000 shares of Omega Environmental stock and purchased for him 500 shares of Hungarian Telephone and Cable Corp. stock without his authorization. The Claimant further alleged that Respondent Mike Wills, who is the General Securities Principal of J.W. Barclay & Co., Inc., told him that they would reimburse him, but then later made derogatory statements to him and said he would not be reimbursed.

Respondents J.W. Barclay & Co., Inc. and Michael J. Wills, through their counsel, Bob E. Lehman, Esq. of Seigel & Godt., P.C., Garden City, NY, maintained that the Claimant authorized the trades made by Respondent Frederick J. Rochelle. Respondents further maintained that the trades took place on July 28, 1993 and that confirmations for trades are mailed no later than the day immediately following the trades; therefore, Respondents asserted, the Claimant distorted the facts when he stated he received the confirmations on August 9, 1993. Respondents contended that the Claimant waited to see if the trades paid off before deciding whether to complain. Respondents further contended that Respondent Michael J. Wills was justified in concluding that Claimant's claim was without merit. Respondents further maintained that even if the trades were not authorized, neither Respondent J.W. Barclay & Co., Inc. nor Respondent Michael J. Wills are responsible, since Claimant did not allege that they could have done anything to prevent it.

Respondent Fred Rochelle, who appeared Pro Se, also maintained that the trades were authorized.

In a Reply to the Answer, the Claimant refuted some of the allegations made by the Respondents and again requested that he be compensated for the loss he has incurred.

RELIEF REQUESTED

Claimant David T. Court requested \$2,465.63 in actual damages.

Respondents J.W. Barclay & Co., Inc. and Michael J. Wills requested that the claims of the Claimant be dismissed.

Respondent Fred Rochelle requested that the claims of the Claimant be dismissed.

AWARD

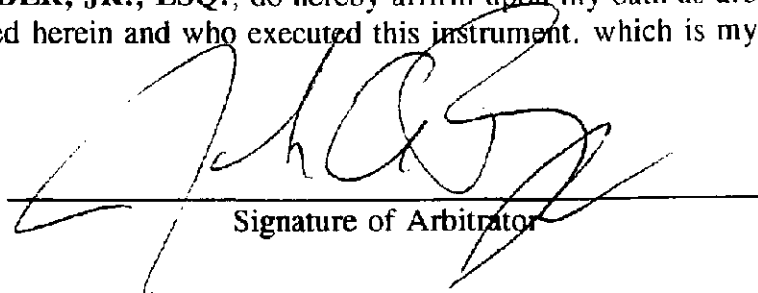
Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, John A. Bender, Jr., Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on September 15, 1993, by Respondents J.W. Barclay & Co., Inc. and Michael J. Wills on November 24, 1993, and by Respondent Fred Rochelle on December 9, 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. Respondents J.W. Barclay & Co., Inc. and Michael J. Wills are jointly and severally liable and shall pay to the Claimant David R. Court \$2,465.63 in actual damages.
2. The claims of the Claimant David R. Court against Respondent Fred Rochelle are dismissed without prejudice.
3. The parties shall bear their respective costs.
4. The \$50.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc. Respondents J.W. Barclay & Co., Inc. and Michael J. Wills are jointly and severally liable and shall pay to the Claimant David R. Court \$50.00 as reimbursement of the filing fee.

AFFIRMATION

I, **JOHN A. BENDER, JR., 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: **May 3, 1994**