

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Keith S. Grover

93-04447

Name of Respondents

Barrett Day Securities, Inc.
Bruce Michael Rothman

REPRESENTATION

For Claimant Keith S. Grover ("Claimant") appeared Eynne Grover, Esq., a sole practitioner located in Melville, New York.

For Respondent Barrett Day Securities, Inc. ("Barrett Day") appeared David Berger, President of Barrett Day Securities, Inc.

Respondent Bruce M. Rothman ("Rothman") appeared pro se.

CASE INFORMATION

Statement of Claim filed: October 14, 1993.

Claimant's Submission Agreement signed on: October 17, 1993.

Statement of Answer by Respondent Barrett Day filed: September 20, 1994.

Respondent Barrett Day's Submission Agreement signed on: January 20, 1995.

Statement of Answer by Respondent Rothman filed: December 15, 1994.

Respondent Rothman's Submission Agreement signed on: January 20, 1995.

HEARING INFORMATION

Hearing Date/Sessions: January 20, 1995 - One Session

The hearings were held at the offices of the National Association of Securities of Dealers, Inc. located in New York, New York.

CASE SUMMARY

Claimant alleged that, on April 15, 1993, he purchased seven hundred warrants of Ongard Systems Inc. and directed Respondent Rothman, his account executive at Respondent Barrett Day, to sell one hundred shares of Alpine Lace Brands, Inc. stock and to apply the proceeds towards the balance due for the purchase of the warrants. Claimant further alleged that, on April 20, 1993, Respondent Rothman informed Claimant that he needed to sign a stock power and that Respondent Rothman sent a stock power to Claimant via facsimile and instructed him to sign it and return it via facsimile.

Claimant alleged that, on April 27, 1993, Respondent Rothman notified Claimant that he needed to send another signed stock power via facsimile, which Claimant alleged he did immediately. Claimant also alleged that, on or about May 4, 1993, Respondent Rothman mailed another stock power to Claimant, which Claimant alleged he immediately signed and returned to Respondent Rothman. Claimant further alleged that Respondent Rothman repeatedly assured him that there was no problem.

Claimant alleged that he received notices that the warrants were sold at a reduction and the stock was repurchased at a premium, but that Respondent Rothman told him to ignore the notices because they were an administrative blunder. Claimant further alleged that he demanded that the warrants be returned to his account, but they were not and that Respondent Barrett Day's President responded that the copy of the stock power sent via facsimile was not acceptable by the clearing firm and that the original was not received on time.

Claimant alleged that Respondents never informed him that if they did not receive an original stock power by a certain date then the warrants would be sold off at a reduction and the stock would be repurchased at a premium. Claimant also alleged that if he had been told that an original stock power had to be received by a certain deadline, he would have mailed it and not sent it via facsimile. Claimant maintained that it would be an injustice to punish Claimant for failing to meet a deadline he was never informed of.

Respondent Barrett Day maintained that Claimant was informed that Respondents needed the original stock power. In addition, Respondent Barrett Day maintained that it attempted to have the copy of the stock power accepted by its clearing firm, but that the firm rejected this request. Respondent Barrett Day further maintained that when they didn't receive the original stock power, they were forced to buy-in the one hundred shares of stock to cover the sell order they had entered for Claimant and they were also forced to sell-out the warrants pursuant to the Reg-T requirement under the securities laws.

Respondent Barrett Day denied that it ever advised Claimant that it was sufficient to send the stock power via facsimile and alleged that it continuously reminded Claimant to forward the original. Respondent Barrett Day maintained that it should not be penalized for complying with the rules and regulations of the industry.

Respondent Rothman maintained that he repeatedly asked Claimant to mail the original stock power. Respondent Rothman also maintained that he also asked Claimant to pay the remaining balance owed for the warrants, but that Claimant refused. In addition, Respondent Rothman maintained that it was not until the warrants increased in price that Claimant complained.

RELIEF REQUESTED

Claimant requested a credit of seven hundred warrants of Ongard Systems Inc. in his account or the equivalent monetary amount that would enable him to purchase such warrants on the market at the time of the hearing. In addition, Claimant requested costs, filing fees, disbursements and reasonable attorneys' fees.

Respondents Barrett Day and Rothman requested that the Statement of Claim be dismissed in its entirety.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents Barrett Day and Rothman be and hereby are jointly and severally liable and shall pay to the Claimant the sum of \$2,198.00.
2. Claimant is hereby ordered to transfer the one hundred shares of Alpine Lace Brands, Inc. stock to Respondent Barrett Day.
3. Respondent shall retain the \$165.00 cash balance presently in Claimant's account.
4. Each party shall bear their own costs, including attorney's fees, except that Respondents Barrett Day and Rothman are jointly and severally liable and shall pay to the Claimant the sum of \$50.00 to reimburse Claimant for the fees Claimant paid to the NASD.
5. All other claims be and hereby are denied.

FORUM FEES


Pursuant to Section 43(c) of the Code of Arbitration Procedure, the arbitrator has assessed the following forum fees:

filing fee	= \$25.00
1 hearing session	= <u>\$25.00</u>
Total	= \$50.00

Respondents Barrett Day and Rothman be and hereby are liable for the sum of \$50.00 representing the total forum fees assessed.

Fees are payable to the National Association of Securities Dealers, Inc.

ARBITRATORS' SIGNATURE



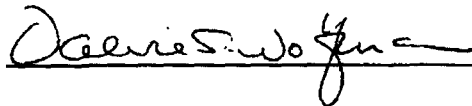
David S. Billet, Esq.
Public Arbitrator

Date of Decision: March 14, 1995

STATE OF: New York

COUNTY OF: New York ss:

On this 10th day March, 1995 before me personally appeared David S. Billet, Esq. known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same.



VALERIE S. WOLFMAN
Notary Public, State of New York
No. 4958657
Qualified in New York County
Term Expires 7/25/95