

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Michael T. DeBusscheree

93-05117

Name of Respondent(s)

Dean Witter Reynolds Inc.

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on December 9, 1993 Claimant Michael T. DeBusscheree, who appeared Pro Se, alleged that Respondent Dean Witter Reynolds, Inc. failed to sell 500 shares of Ambex ("CMBX"), common stock at \$16 per share, as he requested. Claimant further alleged that he received from his broker two sell confirmation orders, but CMBX stock was never sold. Claimant contended that his broker left the firm for two months, and the broker finally assigned to Claimant's account was unable to answer Claimant's questions. Claimant further contended that on September 21, he received a sell confirmation from broker at \$4 per share. As a result of the above, Claimant alleged that he suffered a loss for which Respondent should be held liable.

Respondent Dean Witter Reynolds, Inc., through in-house counsel Elizabeth Hill, Esq., New York, NY, maintained that Respondent failed to execute Claimant's order to sell CMBX because he was never in a position to obtain the \$16 price. Respondent further maintained that in the over the counter market (OTC) in which CMBX is traded, the fact that a price is available to one seller does not mean it's available to another seller. Respondent contended that the \$16 price for CMBX was never available to Respondent, because Respondent does not make a market in CMBX, and it is notified of open orders only after the market makers file their open orders. Respondent further contended that its monthly statements to Claimant quoted NASDAQ prices to convey the value of OTC stock, but those quotes were not promises that Respondent could sell the OTC stock as a particular price.

RELIEF REQUESTED

Claimant, Michael T. Busscheree, requested compensatory damages in the amount of \$6,086.59 plus interest at 6% and expenses. Claimant also requested punitive damages in the amount of \$3,043.30.

Respondent, Dean Witter Reynolds, Inc., requested that the claims of the Claimant be dismissed in their entirety.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single public Arbitrator, Martin Jay Siegel, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on December 6, 1993 and by the Respondent on March 21, 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. The claims of the Claimant Michael T. DeBusscheree against Respondent Dean Witter Reynolds, Inc. are dismissed in their entirety.
2. The Claimant's request for punitive damages is denied.
3. The parties shall bear their respective costs.
4. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Michael T. DeBusscheree, shall be retained by NASD, Inc. Respondent Dean Witter Reynolds, Inc. is liable and shall pay \$150.00 to the Claimant as reimbursement of the filing fee.

Affirmation

STATE OF Ny

SS:

COUNTY OF Ny

I, Martin J. Siegel, do hereby affirm upon my oath
as arbitrator that I am the individual described in and who executed this instrument,
which is my oath and award.



Signature of Arbitrator

DATE OF DECISION: September 20, 1995