

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant(s)

St. Louis Discount Securities, Inc.

94-00294

Name of Respondent(s)

Jeffrey Brooks

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**CASE SUMMARY**

In a claim filed with the National Association of Securities Dealers, Inc. on January 25, 1994, Claimant St Louis Discount Securities, Inc., through its representative, Ronnay L. Jackson, alleged that Respondent Jeffrey Brooks was responsible for a trading error which caused it a loss. Claimant further alleged that on September 22, 1993, they received a wire from RPR Clearing Services, ("RPR"), their clearing firm, asking them to bill a trade cleared by ACT for them, a sale of 2000 Total-Tel USA ("TELU") at 12 1/2. Claimant contended that they told RPR that they did no such trade with anybody and RPR sent a "withhold" to the contra broker, Respondent Brooks, with no response from him. Claimant further contended that the ACT service desk told them that someone must have stolen their password and reported the trade to ACT. Claimant alleged that they had never traded with Brook's company, VICT, and that VICT was not responding to the "withhold". Claimant further alleged that it does all of its OTC trades through RPR and the operations manager at RPR told them that the trade was already on their books and was being charged to them. Claimant contended that when RPR contacted Brooks, he told RPR that he didn't talk to Claimant then later changed his story to say that he could not remember who he talked to when making the initial trade, and therefore Claimant has suffered a loss for which it should be compensated.

Respondent, Jeffrey Brooks, through his Counsel, Michael Dinkes, Esq., of Greenvale, N.Y., maintained that Respondent was the owner of Jeffrey Brooks Securities, Inc. ("JBS"), which was a member in good standing of the NASD, Inc., until it withdrew in October 1993. Respondent further maintained that JBS was a market maker in TELU and Respondent Brooks was not, therefore, the proper party to be named in this action, if any, would be JBS, a defunct company, and therefore, Respondent Brooks should not be held liable.

**RELIEF REQUESTED**

Claimant, St. Louis Discount Securities, Inc., requested \$5,500 in actual damages plus punitive damages of \$1,000 and costs.

Respondent, Jeffrey Brooks, requested that the claims of the claimant be dismissed.

**AWARD**

Pursuant to Section 10 of the NASD, Inc. Code of Arbitration Procedure, a single Industry Arbitrator, Donald C. Bernstein, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the claimants on January 19, 1994 and by the Respondents on June 18, 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 St. Louis Discount Securities, Inc., against the Respondent Jeffrey Brooks, are dismissed in their entirety in accordance with Respondent Jeffrey Brooks' motion to dismiss because this action was instituted against the wrong party.
2. The parties shall bear their respective costs.
3. The claimant's request for punitive damages is also denied.

The \$575 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant, St. Louis Discount Securities, Inc., shall be retained by the NASD, Inc.

**Affirmation**

STATE OF *Missouri*

} SS:  
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COUNTY OF *St. Louis*

I, *Donald C. Bernstein*, 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.

  
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Signature of Arbitrator

DATE OF DECISION:

April 27, 1995