

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Dennis B. Hauber

94-00647

Name of Respondents

**Craig Hallum, Inc.
Darrell Peterson
Steven Barker**

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on February 23, 1994, Claimant Dennis B. Hauber, who appeared Pro Se, alleged that Respondent Craig Hallum, Inc. and Darrell Peterson failed to execute a market order sale of Minnesota Brewing stock on October 26, 1993 at 5 3/4. Claimant further alleged that the order was not filled until 10/27/93 at 2:00 p.m. for 5 1/4. Claimant contended that at the time he requested the market order sale on October 26, 1993 he could have sold his 1,000 shares of Minnesota Brewing for 5 3/4 per share. Claimant further contended that at the time the order was filled, on October 27, 1993 at 2:00 p.m., the sale price was at 5 1/4 per share which resulted in a loss of \$500.00. Claimant alleged that he tried to resolve this matter by writing to Respondent Steven Barker at Respondent Craig Hallum, Inc., but his claim was denied. As a result of the above, Claimant contended that he has suffered damages for which the Respondents should be held liable.

Respondents Craig Hallum, Inc., Darrell Peterson and Steven Barker, through their in-house counsel, Joseph D. Fleming, Esq., Chicago, Illinois, maintained that on October 26, 1993, the Claimant told Respondent Darrell Peterson that he "wanted to sell if he could get 5 3/4 net of commission". Respondents further maintained that as Claimant's instructions were to sell only if he could get that price, which was higher than the prevailing bid, Peterson properly entered the order as a limit order. Respondents contended that the order was not filled as the market bid never reached a price which would have netted Claimant 5 3/4. Respondents further contended that on October 27, 1993, when the price of the stock was at 5 1/2, Claimant informed Peterson that he wanted out of the stock and would now accept 5 1/4 net. Respondents maintained that Peterson immediately put the order in and it was executed. Respondents further

maintained that after receiving confirmation of the trade, Peterson called the Claimant to inform him of the transaction and Claimant said nothing about the execution of his orders. As a result of the above, Respondents contended that they should not be held liable in this matter.

RELIEF REQUESTED

Claimant Dennis B. Hauber requested \$500.00 in actual damages.

Respondents Craig Hallum, Inc., Darrell Peterson and Steven Barker requested that Claimant's Statement of Claim be dismissed in its entirety and that attorney's fees and costs be assessed against the Claimant.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Stephen P. Kelley, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on February 15, 1994, by Respondent Darrell Peterson on June 14, 1994, by Respondent Steven Barker on May 9, 1994 and by Respondent Craig Hallum, Inc. on May 9, 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 Dennis B. Hauber against Respondents Craig Hallum, Inc., Darrell Peterson and Steven Barker are dismissed in their entirety.
2. The parties shall bear their respective costs, including attorney's fees.
3. The \$30.00 filing fee previously deposited with the NASD, Inc. by the Claimant shall be retained by the NASD, Inc. Respondents Craig Hallum, Inc., Darrell Peterson and Steven Barker are jointly and severally liable and shall pay Claimant Dennis B. Hauber \$30.00 as reimbursement of the filing fee.

AFFIRMATION

I, **STEPHEN P. KELLEY, 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: December 8, 1994