

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

David E. Perry

94-00774

Name of Respondent

Emanuel & Company

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on March 1, 1994, Claimant David E. Perry ("Claimant"), who appeared Pro Se, alleged that Respondent Emanuel & Company ("Respondent"), failed to timely deliver to Claimant his 500 shares of Sulcus Computer ("Sulcus"). Claimant further alleged that Jerome Feldmen, an employee of Respondent, had sold him the 500 Sulcus shares at \$11.00 per share during the first week of November, 1993. Claimant contended that between the day of purchase and February 8, 1994, he phoned Respondent and spoke with Steven Valahos, Steve Folan, and Robert DeMartino, on separate occasions, but was unable to get the stock transferred despite their assurances to the contrary. Claimant contended that between the day of purchase and February 8, 1994, Sulcus fell from \$11.00 to \$7.00, a loss against which he was unprotected because he never received the Sulcus shares from Respondent. Claimant further contended that as a result of the above, he has suffered a loss for which the Respondent should be held liable.

Respondent Emanuel & Company failed to file an Answer to the Statement of Claim.

RELIEF REQUESTED

Claimant David E. Perry, requested \$2,000.00 in actual damages.

Respondent Emanuel & Company failed to file an Answer to the Statement of Claim.

OTHER ISSUES CONSIDERED AND DECIDED

In accordance with Section 13 of the NASD Code of Arbitration Procedure, the Respondent Emanuel & Company, was served by regular mail and given an opportunity to respond, which it failed to do. In addition, an overdue answer notice and notice of the identity of the arbitrator were sent to the Respondent Emanuel & Company, by certified mail and were received as evidenced by the signed return receipt card on file at the NASD.

Pursuant to the By-laws of the NASD, the Arbitrator determined that Respondent Emanuel & Company, has notice of the claim, and was required to submit to this arbitration proceeding; and is, therefore, bound by the arbitrator's ruling and determination.

AWARD

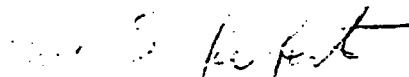
Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Earl S. Roberts, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant David E. Perry, on February 24, 1994, and not by Respondent Emanuel & Company, as required by Sections 12 & 13 of the NASD Code of Arbitration Procedure.

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 Respondent Emanuel & Company, is liable and shall pay to the Claimant David E. Perry, \$2,000.00 in actual damages.
2. The Respondent Emanuel & Company, is liable and shall pay to the Claimant David E. Perry, interest at the rate of 9% per annum from December 15, 1993 to date of payment of the award.
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 David E. Perry, shall be retained by the NASD, Inc. The Respondent Emanuel & Company, is liable and shall pay to the Claimant David E. Perry, \$50.00 as reimbursement of the filing fee.

AFFIRMATION

I, **EARL S. ROBERTS**, 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.



Earl S. Roberts

DATE OF DECISION: February 6, 1996