

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Paul Eddie Dwyer

94-01127

Name of Respondents

Dennis Roth

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on March 23, 1994, Claimant Paul Eddie Dwyer, who appeared Pro Se, alleged that he purchased 700 shares of Top Source Technologies, Inc. stock through Respondent Dennis Roth. Claimant further alleged that Respondent sold this stock from his account without his authorization. Claimant contended that the investment in question was his first stock purchase. Claimant further contended that when he tried to discuss the unauthorized transaction with Respondent, Respondent became verbally abusive and threatened him. As a result of the above, Claimant alleged that he has suffered damages for which the Respondent should be held liable.

Respondent Dennis Roth, who appeared Pro Se, maintained that he sold the stock in question after attempting to contact the Claimant several times because a secondary registration had just become effective and the stock was dropping rapidly. Respondent further maintained that it was his understanding that Claimant purchased 500 shares of Top Source Technologies, Inc. stock with the proceeds of the sale in question, so that the dispute only involves 200 shares of this stock. Respondent contended that he asked Claimant his target price but Claimant stated that he did not have a target price, and wanted to hold the stock in question for at least two years. Respondent contended that since he acted without the Claimant's express consent in selling the shares in question, the Claimant should be made whole at his expense, but that Claimant does not have the right to pick the twelve month high for the stock in question as his target

price and ask that Respondent compensate the Claimant accordingly. Respondent further contended that he did not recall becoming verbally abusive or threatening towards Claimant. As a result of the above, Respondent admitted liability but contested the amount of damages requested.

RELIEF REQUESTED

Claimant Paul Eddie Dwyer requested \$2,712.00 in actual damages, a signed statement from Respondent Roth that he will not call, visit or threaten him in any way, and an apology from Respondent Roth for being verbally abusive towards him.

Respondent Dennis Roth admitted liability but contested the amount of damages requested by the Claimant.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single public arbitrator, Marvin Elster, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on March 21, 1994 and by the Respondent on July 1, 1994.

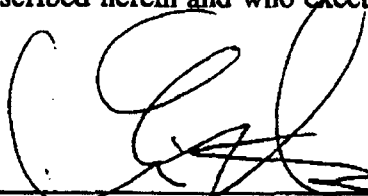
And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Respondent Dennis Roth is liable and shall pay to Claimant Paul Eddie Dwyer \$2,712.00 in actual damages.
2. The parties shall bear their respective costs.
3. The \$125.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc. Respondent Dennis Roth is liable and shall pay to Claimant Paul Eddie Dwyer \$125.00 as reimbursement of the filing fee.

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AFFIRMATION

I, **MARVIN ELSTER, ESQ.**, do hereby affirm upon my oath of arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.

A handwritten signature in black ink, appearing to be 'M. Elster', written over a horizontal line.

Signature of Arbitrator

DATE OF DECISION: November 9, 1994