

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)

Robert M. Flora

94-01242

Name of Respondent(s)

Barrett Day Securities, Inc.

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CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on April 5, 1994, Claimant Robert M. Flora, who appeared Pro Se, alleged that Respondent Barrett Day Securities, Inc., through its representatives, was using harassing, malicious and unscrupulous techniques in trying to persuade Claimant to invest in high risk securities such as Aim Role International. Claimant further alleged that Respondent through its representatives, misrepresented certain securities in order to procure an investment from him. Claimant also alleged that due to the Respondent's failure to supervise its licensed representatives, he was defrauded via misrepresentation and illegal solicitations, and therefore he should be compensated for the losses he has suffered due to the wrongdoing of the Respondent.

Respondent Barrett Day Securities through its outside counsel Ruthann G. Niosi, Esq., New York, NY, maintained that Claimant had suffered no actual loss and has no standing to bring this action. Respondent further maintained that on or about March 2, 1994 an account was opened up for Claimant and Claimants trading history shows only one order being placed for 200 shares of Tera West Ventures on March 9, 1994 for a net amount of \$1,512.00 which was subsequently cancelled by Claimant. Respondent contended that there is no record of a complaint from Claimant either in writing or verbally. Respondent further contended that Claimant has suffered no loss and is initiating this action merely to make "easy money", therefore the complaint should be dismissed in its entirety.

**RELIEF REQUESTED**

Claimant Robert M. Flora requested \$2,500.00 in punitive damages.

Respondent Barrett Day Securities requested that all 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, David Fogel, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on March 31, 1994 but not by the Respondent as required by Sections 12 and 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 claims of Claimant Robert M. Flora against Respondent Barrett Day Securities are dismissed in its entirety.
2. The parties shall bear their respective costs.

The \$50.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Robert M. Flora, shall be retained by the NASD, Inc.

**AFFIRMATION**

I, **David Fogel, 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.

  
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David Fogel, Esq.

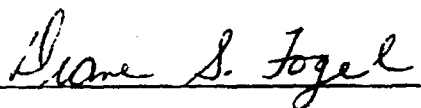
Date of Decision: May 9, 1995

STATE OF

ss:

COUNTY OF

On this *7<sup>th</sup>* day of *May*, 1995, before me personally appeared **David Fogel, Esq.** known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same.

  
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Diane S. Fogel

COUNTY OF BERGEN  
STATE OF NEW JERSEY  
DIANE S. FOGEL  
NOTARY PUBLIC  
MY COMMISSION EXPIRES SEPT. 6, 1999  
I.D. NO. 2165521