

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

---

In the Matter of the Arbitration Between

Name of Claimant(s)

Robert O. Johnson

94-01335

Name of Respondent(s)

Theodore L. White, Jr.

---

**CASE SUMMARY**

In a claim filed with the National Association of Securities Dealers, Inc. on April 8, 1994, Claimant Robert O. Johnson, who appeared Pro Se, alleged that Respondent Theodore L. White, Jr. of Merrill Lynch, Pierce, Fenner and Smith, Inc. breached an agreement concerning the sale of bonds. Claimant further alleged that on April 26, 1988, he placed an order with Respondent for the purchase of \$200,000.00 U.S. Treasury Bonds, 7-1/2% maturing May 15, 2016 at 84-10/32 on one million. Claimant contended that Respondent executed his order at 84-29/32, or \$1,187.50 more than quoted. Claimant further contended that Respondent assured him that if he kept the bonds, they could be sold at no charge. Claimant alleged that when he sold the bonds on March 25, 1993, he was charged a "hidden commission" of \$927.00, for which Respondent should be held liable.

Respondent, Theodore L. White, Jr., through his representative, Christopher D. Cavuoti, Esq., in-house counsel for his employer, Merrill Lynch, Pierce, Fenner and Smith, Inc., maintained that Claimant's April 26, 1988 order was a market order which was properly executed at 84-29/32. Respondent further maintained that he did not make an agreement to sell these bonds for Claimant at a later date at no charge. Respondent contended that on March 25, 1993 Claimant placed an unsolicited market order to sell through Respondent, and his order was properly executed at 105 27/32. Respondent maintained that Claimant suffered no damages, and accordingly, he should not be held liable.

**RELIEF REQUESTED**

Claimant, Robert O. Johnson, requested \$927.00 in actual damages.

Respondent, Theodore L. White, Jr., requested that the claims of the Claimant be dismissed.

**AWARD**

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Gary M. Landau, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on March 30, 1994 and by the Respondent on July 15, 1994.

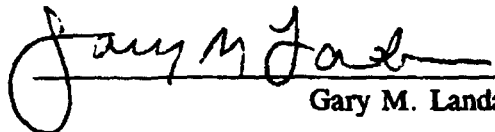
And, the Arbitrator, having considered the proof of the parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. The claims of the Claimant, Robert O. Johnson, against the Respondent, Theodore L. White, Jr. are dismissed in their entirety.
2. The parties shall bear their respective costs.

The \$30.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Robert O. Johnson, shall be retained by the NASD, Inc. Respondent Theodore L. White, Jr. shall pay to the Claimant \$15.00 as reimbursement of one-half of the filing fee.

**AFFIRMATION**

I, Gary M. Landau, 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.

  
\_\_\_\_\_  
Gary M. Landau, Esq.

Date of Decision: April 24, 1995

## **REPORT OF ARBITRATOR**

Based on the facts as presented to me, the claimant has failed to meet his burden of proof that an agreement of this type existed. Further, it appears that the claimant suffered no damages. Accordingly, the claim is dismissed.