

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Clifford C. Wood

94-01945

Name of Respondents

Thomas James Associates, Inc.
Michael Johnson

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on May 25, 1994, Claimant Clifford C. Wood, who appeared Pro Se, alleged the Respondents Thomas James Associates, Inc. ("TJA") and Respondent Michael Johnson ("Johnson") opened an unauthorized account without his knowledge or permission under the name of "Laurie Wood". Claimant further alleged that Respondents purchased 5,350 shares of Cybernetics Products without authorization and did not sell such shares when requested to do so. Claimant contended that Respondent Johnson repeatedly refused to return his phone calls which caused further delays in transacting his business. As a result of the above, Claimant alleged that he has suffered damages for which the Respondents should be held liable.

Respondents Thomas James Associates, Inc. and Michael Johnson, through their representative, Paul J. Delmore, Esq. of Edwards, White & Sooy, San Diego, CA, maintained that the Claimant opened three accounts with Respondent TJA, with one of them in the name of "Clifford Wood and Laurie Wood", and purchased stock for this account in June 1992. Respondents further maintained that for the next eleven months, Claimant discussed the purchase of this stock with Respondent Johnson and never once complained about anything. Respondents contended that there was never any unauthorized trading in any account nor did Respondent Johnson ever refuse to sell any shares of any product when requested to do so. As a result of the above, Respondents maintained that they should not be held liable in this matter.

RELIEF REQUESTED

Claimant Clifford C. Wood requested \$3,293.50 in actual damages.

Respondents Thomas James Associates, Inc. and Michael Johnson requested that the claims of the Claimant be dismissed and that they be awarded costs and attorney's fees.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Edward W. Burnett, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on July 20, 1994, by Respondent Thomas James Associates, Inc. on September 15, 1994, and not by Respondent Michael Johnson 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 claims of the Claimant Clifford C. Wood against Respondent Thomas James Associates, Inc. and Michael Johnson are dismissed in their entirety.
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 Clifford C. Wood shall be retained by the NASD, Inc.

AFFIRMATION

I, **EDWARD W. BURNETT**, 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: February 27, 1995