

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimants

Shienkun J. Chen & Fangyun Lu Chen

94-02059

Name of Respondents

Randle Villa  
Trent Gribben  
First American Biltmore Securities, Inc.

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CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on June 2, 1994, Claimants Shienkun J. Chen and Fangyun Lu Chen, who appeared Pro Se, stated that on May 5, 1992 Claimants purchased 10,000 shares of restricted common stock of Aqua Vie Beverage Corporation ("Aqua Vie") through Respondents Randle Villa ("Villa") and Trent Gribben ("Gribben") of Respondent First American Biltmore Securities, Inc. ("First American"). Claimants further stated that they were told that Kevin Woodbridge ("Woodbridge") of Woodbridge & Associates would handle the transaction. Claimants alleged that they have never received delivery of the stock certificate for these shares despite numerous attempts to contact Respondents, and that Respondents Villa and Gribben failed to disclose that the Aqua Vie shares were registered in Woodbridge's name. Claimants further alleged that Respondent First American is responsible for the activities conducted by Villa and Gribben under First American's supervision. As a result of the above, Claimants alleged that they suffered damages for which Respondents should be held liable.

Respondent, Trent Gribben ("Gribben"), who appeared Pro Se, maintained that the problem stated in the Statement of Claim did not occur at First American, and that he did not know of or benefit from the transaction. Gribben further maintained that Claimant Shienkun J. Chen requested that Gribben assist in obtaining transfer of the Aqua Vie shares, and that Gribben tried to the best of his ability to expedite the transfer. Gribben asserted that he did not represent or approve of the transaction. As a result of the above, Respondent Gribben maintained that he should not be held liable in this matter.

Respondents Randle Villa and First American Biltmore Securities, Inc. did not file an answer

to these allegations.

### **RELIEF REQUESTED**

Claimants, Shienkun J. Chen and Fangyun Lu Chen, requested cancellation of the 10,000 share purchase of Aqua Vie, and refund of the \$10,000 purchase price.

Respondent, Trent Gribben, did not specifically state a relief.

Respondents Randle Villa and First American Biltmore Securities, Inc. did not file an answer to the Statement of Claim and did not specify a relief.

### **OTHER ISSUES CONSIDERED & DECIDED**

Respondents Randle Villa and First American Biltmore Securities, Inc. did not file with the NASD properly executed submissions to arbitration but are required to submit to arbitration pursuant to Section 12 of the NASD Code of Arbitration Procedure (the "Code"), and are bound by the determination of the arbitrator on all issues submitted.

On March 3, 1995, Claimants Shienkun J. Chen and Fangyun Lu Chen, notified the NASD that they had chosen to proceed with their claims against Respondent Trent Gribben only. Therefore, the presiding Arbitrator ruled that Claimants' case against Respondents Randle Villa and First American Biltmore Securities, Inc. is dismissed without prejudice.

### **AWARD**

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single public Arbitrator, Delores I. Smith, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on May 26, 1994 and by Respondent Trent Gribben on July 22, 1994.

1. In accordance with Section 13 of the NASD Code of Arbitration Procedure, the Respondents Randle Villa and First American Biltmore Securities, Inc., were served by regular mail and given an opportunity to respond, which they failed to do.
2. Pursuant to the By-laws of the NASD, the Arbitrator determined that Respondents Randle Villa and First American Biltmore Securities, Inc. had notice of the claim, and were required to submit to this arbitration proceeding; and are, therefore, bound by the arbitrator's ruling and determination.

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 Statement of Claim filed by Claimants Shienkun J. Chen and Fangyun Lu Chen, is dismissed with prejudice as to Respondent Trent Gribben.
2. The Statement of Claim filed by Claimants Shienkun J. Chen and Fangyun Lu Chen, is dismissed without prejudice as to Respondents Randle Villa and First American Biltmore Securities, Inc.
3. The parties shall bear their respective costs.
4. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. ("NASD") by the Claimants shall be retained by the NASD, Inc. Respondent, Trent Gribben, is hereby liable for and shall pay to Claimants, Shienkun J. Chen and Fangyun Lu Chen \$150.00 as reimbursement of the filing fee.

**AFFIRMATION**

I, **DELORES I. SMITH, 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.

DeLora I. Smith, Esq.  
Signature of Arbitrator

DATE OF DECISION: *August 25, 1995*