

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Kenneth R. Keller

95-00356

Name of Respondent(s)

Steven A. Souhrada
Scott L. Mathis

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on January 23, 1995, Claimant Kenneth R. Keller, who appeared Pro Se, alleged that Respondents Steven A. Souhrada and Scott L. Mathis of Gruntal & Co. recommended he sell his shares of Triad Systems Stock which was declining in value in order to purchase stock in Denny's, trading as Flagstar Companies, Inc. The Claimant further alleged that he did authorize the purchase of the Flagstar stock, however, the stock was bought on margin, which he did not authorize. Claimant Keller contended that on March 14, 1994 he received a margin call document requesting additional funds and when he questioned Respondent Mathis he was told it was attributable to a "money market problem". The Claimant also contended he only approved the purchase of shares that would be covered by the proceeds of the Triad Systems sale, which should have been 604, but that he was sent a confirmation for 1,500, which was not correct. Claimant Keller asserted that he is entitled to recover losses he incurred due to the wrongdoing of the Respondents, and therefore they should be held liable in this matter.

Respondents Steven A. Souhrada and Scott L. Mathis, through their representative and counsel, Emilia M. De Meo of Gruntal & Co., Inc., maintained that Claimant agreed to purchase the Flagstar Companies, Inc. stock, but that there was a miscalculation of the number of shares purchased, which caused a margin call letter to be sent to the Claimant. Respondents contended that the original purchase of 1,500 shares bought on margin was corrected to 1,225 shares bought on margin with the Claimant's consent. The Respondent's also contended that Claimant Keller was well aware of the risks attendant to investing in the stock market, and that the decrease in value of the investment was caused by unforeseeable market conditions over which Respondents had no control, and therefore, the claims against them should be dismissed.

RELIEF REQUESTED

Claimant Kenneth R. Keller, requested that his account be adjusted to reflect his ownership of 604 shares of Flagstar Companies, Inc. stock, which is equal to the number of shares he would have been able to purchase with the proceeds of his Triad Systems stock sale.

Respondents Scott L. Mathis and Steven A. Souhrada, 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, Ronald E. Copley, PhD., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on January 17, 1995 and by the Respondents on March 31, 1995.

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. Respondents Scott L. Mathis and Steven A. Souhrada are jointly and severally liable and shall place in Claimant Kenneth R. Keller's account sufficient funds for 604 shares of Flagstar Companies Inc. stock, which is \$3,452.00 as of December 30, 1994.
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. Respondents Scott L. Mathis and Steven A. Souhrada are jointly and severally liable and shall pay to the Claimant \$125.00 as reimbursement of the filing fee.

AFFIRMATION

I, **Ronald E. Copley**, 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.



RONALD E. COPLEY

DATE OF DECISION: December 27, 1995