

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Douglas E. Thielen

95-00609

Name of Respondent

Earl J. Rusnak

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on February 7, 1995, Claimant Douglas E. Thielen ("Claimant"), who appeared Pro Se, alleged that Respondent Earl J. Rusnak ("Respondent"), failed to follow his written instructions on March 5, 1994, which were to inform him if the value of his portfolio fell below \$15,000.00. Claimant further alleged that he received an account statement indicating a balance of \$12,256.00 and shortly thereafter on April 16, 1994, closed the account. Claimant contended that as a result of the above, he has suffered a loss for which the Respondent should be held liable.

Respondent Earl J. Rusnak, through his representative, Darren Lampert, Esq., of Lampert & Lampert, Esqs., located in New York, NY, maintained that he properly discharged his duties, responsibilities and obligations, in accordance with the law and with industry standards and practices. Respondent further maintained that there is lack of sufficient information to form a belief as to the truth of the allegations of the Claimant and denies all allegations of wrongdoing presented. Respondent contended that the NASDAQ System does not accept stop loss limit orders, therefore, he cannot be liable for the Claimant's losses. Respondent further contended that the losses were caused or contributed to by the Claimant's own fault or conduct, and that as a result of the above, he should not be held liable.

RELIEF REQUESTED

Claimant Douglas E. Thielen, requested \$2,744.00 in actual damages, plus interest.

Respondent Earl J. Rusnak, requested that the claims of the Claimant be dismissed.

AWARD

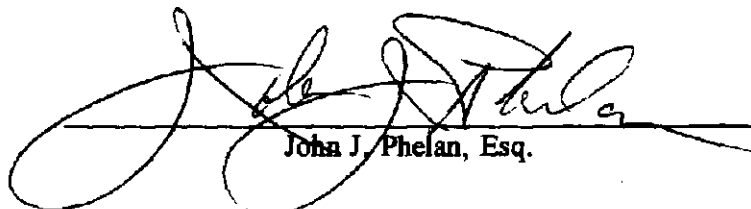
Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, John J. Phelan, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant Douglas E. Thielen, on January 31, 1995, and by the Respondent Earl J. Rusnak, on April 27, 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. The Respondent Earl J. Rusnak, is liable and shall pay to the Claimant Douglas E. Thielen, \$2,078.00 in actual damages.
2. The parties shall bear their respective costs.
3. All other relief requests are denied.
4. The \$125.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Douglas E. Thielen, shall be retained by the NASD, Inc. The Respondent Earl J. Rusnak, is liable and shall pay to the Claimant Douglas E. Thielen, \$125.00 as reimbursement of the filing fee.

AFFIRMATION

I, JOHN J. PHELAN, 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.


John J. Phelan, Esq.

DATE OF DECISION: October 5, 1995