

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Frederick L. Scheffler, Custodian

95-00764

Name of Respondent

Thomas James Associates, Inc.

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on February 13, 1995, Claimant Frederick L. Scheffler, Custodian ("Claimant"), who appeared Pro Se, alleged that Respondent Thomas James Associates, Inc. ("Respondent"), disregarded Claimant's stated investment objectives and made imprudent and inappropriate recommendations in highly speculative stocks to his detriment. Claimant further alleged Respondent was advised that Claimant's account was a custodial account intended to accumulate funds for his son's college education. Claimant contended he followed Claimant's recommendations and bought 100 shares of Sayett, 100 shares of Sayett Warrants, 100 shares of Sanborn, 300 shares of Xerographic Laser Images and 500 shares of Infinite Machines to his detriment. Claimant further contended that Respondent was uncooperative and did not provide the funds from sale of the account assets in a timely fashion. Claimant alleged he invested \$5,000.00 with Respondent and asserted that it would have grown to \$6,000.00 had he gotten a reasonable rate of return of 6% over three years. Claimant further alleged that as a result of the above, he has suffered a loss for which the Respondent should be held liable.

Respondent Thomas James Associates, Inc., through its representative, Paul J. Delmore, Esq., of Edwards, White & Sooy, located in San Diego, CA, maintained that Claimant is an individual who traded with Respondent for over three years and has previous stock market experience. Respondent further maintained there was no misconduct in relation to the Claimant's account and asserted that all purchases were suitable and pursuant to the Claimant's investment objectives. Respondent contended there is no proximate cause relationship between the losses and the allegations concerning Claimant's inability to contact the account executive. Respondent further contended that Claimant does not explain how the \$5,000.00 he invested should have grown to \$6,000.00. Respondent maintained that as a result of the above, it should not be held liable.

RELIEF REQUESTED

Claimant Frederick L. Scheffler, Custodian, requested \$1,828.00 in actual damages.

Respondent Thomas James Associates, Inc., 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, Dennis C. Belli, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant Frederick L. Scheffler, Custodian, on February 7, 1995, and by the Respondent Thomas James Associates, Inc., on February 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 claims of the Claimant Frederick L. Scheffler, Custodian, against Respondent Thomas James Associates, Inc., are denied in their entirety.
2. The parties shall bear their respective costs.
3. The \$50.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Frederick L. Scheffler, Custodian, shall be retained by the NASD, Inc.

AFFIRMATION

I, **DENNIS C. BELLI, 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.

A handwritten signature in cursive script, appearing to read "Dennis C. Belli", is written over a horizontal line.

Dennis C. Belli, Esq.

DATE OF DECISION: January 31, 1996