

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Theodore H. Haskell

95-00818

Name of Respondent

Kevin P. Gallagher

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on March 9, 1995, Claimant Theodore H. Haskell ("Haskell"), who appeared Pro Se, alleged that on January 24, 1995, Respondent Kevin P. Gallagher ("Gallagher"), a registered representative employed with Sands Brothers & Co., Ltd. ("Sands Brothers") recommended that Claimant sell 300 shares of Storage Technology (STK) and purchase of 900 shares of Ameridata Tech. (ADA). Claimant further alleged that later that day he learned that the price of STK had fallen. Claimant asserted that he tried to contact Gallagher on January 25th and 26th without success. Claimant further asserted that he was informed by Hugh Marasa ("Marasa"), another Sands Brothers employee, that he now owned 800 shares of ADA as well as 300 shares of STK, and that he had three options: (1) to keep both stocks and pay for the ADA on margin, (2) to sell STK and finance the difference on margin, or (3) to cancel the purchase of ADA with no commission charged and retain the STK. Claimant stated that he informed Marasa to exercise option three. Claimant further stated that on January 27, 1995 he received a confirmation for the purchase of 800 shares of ADA. As a result of the above, Claimant alleged that he has suffered damages for which the Respondent should be held liable.

Respondent Kevin P. Gallagher, through Emil Spinelli, Director of Compliance for Sands Brothers & Co., Ltd., New York, New York, maintained that he recommended the purchase of ADA and the sale of STK at 4:10pm on January 24, 1995, and that it was understood that the STK would be sold on the next day at the opening of the market. Gallagher further maintained that at 4:19pm STK made an earnings announcement that was below the market's expectations, and the price dropped on Instinet. Gallagher contended that he attempted to contact Claimant without success. Respondent further contended that on January 25, 1995, Claimant telephoned Sands Brothers and said that he did not want to sell the STK. Gallagher stated that he attempted to contact Claimant several times that day without success. Respondent acknowledged that Claimant spoke to Marasa and that Claimant

chose to cancel the ADA purchase. Additionally, Gallagher asserted that the ADA purchase was cancelled on February 8, 1995. As a result of the above, Respondent contended that it should not be held liable in this matter.

RELIEF REQUESTED

Claimant Theodore H. Haskell requested \$2,400 in actual damages, plus \$150 in filing fees.

Respondent Kevin Gallagher requested that the Statement of Claim be dismissed.

AWARD

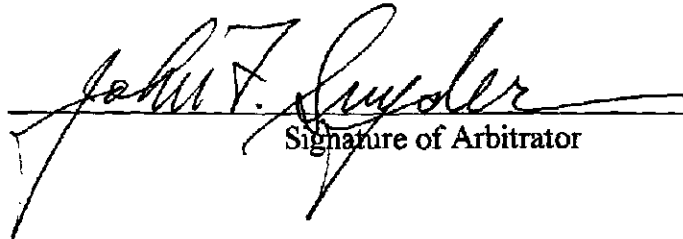
Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single public Arbitrator, John F. Snyder, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on February 14, 1995 and by the Respondent on April 7, 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. Respondent Kevin Gallagher is liable for and shall pay to Claimant Theodore H. Haskell, \$2,400.00 in actual damages.
2. The parties shall bear their respective costs.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. ("NASD") by the Claimant shall be retained by the NASD, Inc. Respondent Kevin Gallagher is liable for and shall pay to Claimant Theodore H. Haskell, \$150.00 as reimbursement of the filing fee.

AFFIRMATION

I, **JOHN F. SNYDER, 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.



Signature of Arbitrator

DATE OF DECISION: June 13, 1995