

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of Arbitration Between

Name of Claimant

Mary Dolshun

v.

95-01026

Name of Respondents

M. Rimson & Company, Inc.  
Chris Kovacevich

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**REPRESENTATION**

Claimant, Mary Dolshun, appeared pro se.

Respondents, M. Rimson & Company, Inc. and Chris Kovacevich, did not appear at the evidentiary hearing conducted in this matter.

**CASE INFORMATION**

Statement of Claim filed: March 20, 1995

Claimant's Submission Agreement signed on: February 24, 1995

Statement of Answer filed by Respondent, M. Rimson & Co., Inc., on: June 9, 1995

Respondent, M. Rimson & Company, Inc.'s, Submission Agreement signed on June 9, 1995.

Respondent, Chris Kovacevich, failed to file a Statement of Answer or execute a Submission Agreement as required by Section 25(b) of the NASD Code of Arbitration Procedure (the "Code").

## **HEARING INFORMATION**

Hearing dates/sessions: May 13, 1996 - One Session

The hearings were held at the offices of the National Association of Securities Dealers, Inc. located in New York City, New York.

## **CASE SUMMARY**

Claimant alleged that she purchase 1000 shares of GeneLab Tech for \$5,197.50 on October 28, 1993, from Respondent, Chris Kovacevich ("Kovacevich"), a registered representative with Respondent, M. Rimson & Company, Inc. ("Rimson"). Claimant further alleged that on December 22, 1993 Kovacevich, without authorization, sold 1000 shares of GeneLab Tech and subsequently purchased 1450 shares of Starcom Entertainment ("Starcom").

Claimant alleged that she was later informed that Starcom was worthless and liquidated her holdings in Starcom, from which she received a check for \$86.25 that she did not cash. In addition, Claimant alleged that her account was transferred to Emmett Larkin Company, Inc. without her authorization.

Claimant asserted that Rimson should be held liable for the conduct of Kovacevich.

Rimson maintained that all trades made in Claimant's account were done with her authorization. Rimson maintained that Claimant did not file a complaint until after Starcom had substantially declined in price; at which time Rimson believes Claimant had been contacted by various agencies which were investigating the stock. Rimson further maintained that Claimant should have registered a complaint as soon as she received her confirmation and not after the stock had depreciated dramatically.

Rimson maintained that Emmett Larkin Company, Inc. ("Larkin") is their clearing agent, with whom they became associated with in August 1994, and that Larkin is responsible for sending out customer statements.

## **RELIEF REQUESTED**

Claimant requested damages in the amount of \$5,197.50, in addition to treble damages.

Respondent, M. Rimson & Company, Inc., requested that all claims be denied.

### OTHER ISSUES CONSIDERED AND DECIDED

1. The arbitration panel made the following rulings concerning Respondent, M Rimson & Company, Inc., who failed to appear at the evidentiary hearing conducted in this matter:
  - a. Pursuant to Section 1 of the NASD Code of Arbitration Procedure, the panel found subject matter jurisdiction over this entire controversy.
  - b. The panel found that the Respondent, M. Rimson & Company, Inc., was a member of the NASD at the time the controversy arose. Consequently, the panel found personal jurisdiction over the Respondent pursuant to Section 12 of the NASD Code of Arbitration Procedure.
  - c. In addition, in accordance with Sections 21, 26 and 29 of the NASD Code of Arbitration Procedure, the panel found that the NASD provided Respondent with "due notice" of the hearing conducted in this matter by regular and certified mail. The panel, therefore, determined to proceed with the hearing without Respondent, whose absence was unexcused.
2. The arbitration panel made the following rulings concerning Respondent, Chris Kovacevich, who did not file a Statement of Claim or execute a Submission Agreement, and failed to appear at the evidentiary hearing conducted in this matter:
  - a. The panel found that proper service was not effected on Respondent, Chris Kovacevich, as required by Section 25(a) of the Code. In addition, the panel found that Respondent, Chris Kovacevich, was not given notice of the time, date and location of the evidentiary hearing. Therefore, the panel dismissed the claims asserted against Chris Kovacevich.
3. The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASD.

### **AWARD**

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. All claims against Respondent, M. Rimson & Company, Inc., are dismissed;
2. All claims against Respondent, Chris Kovacevich, are dismissed without prejudice; and,
3. All other requests for relief are denied.

### **FORUM FEES**

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the arbitrators have assessed the following forum fees:

Total Forum Fees: \$400.00 (1 Session x \$400)

- 1) Claimant is assessed the amount of \$400.00 representing the total forum fees due, less \$400.00 previously paid, leaving \$00 due.

Fees are payable to the National Association of Securities Dealers, Inc.

ARBITRATORS' SIGNATURES

Krishna M. Vempaty

Krishna M. Vempaty, Esq.  
Public Chairperson

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Alexander J Gillespie, Esq.  
Public Arbitrator

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Esther Koslow, Esq.  
Industry Arbitrator

Date of decision: October 3, 1996

I, **Krishna M. Vempaty, Esq.**, do hereby affirm, pursuant to Article 7505 of the Civil Practice Law and Rules, that this is my decision in the above captioned matter.

Krishna M. Vempaty  
Krishna M. Vempaty, Esq.

I, **Alexander J. Gillespie, Esq.**, do hereby affirm, pursuant to Article 7505 of the Civil Practice Law and Rules, that this is my decision in the above captioned matter.

Alexander J. Gillespie, Esq.

I, **Esther Koslow, Esq.**, do hereby affirm, pursuant to Article 7505 of the Civil Practice Law and Rules, that this is my decision in the above captioned matter.

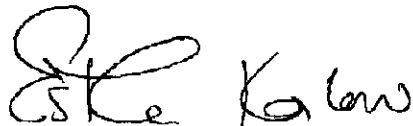
Esther Koslow, Esq.

NASD Date of Decision: October 3, 1996

**ARBITRATORS' SIGNATURES**

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Krishna M. Vempaty, Esq.  
Public Chairperson

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Alexander J Gillespie, Esq.  
Public Arbitrator

A handwritten signature in cursive script, appearing to read 'E. Koslow', written over a horizontal line.

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Esther Koslow, Esq.  
Industry Arbitrator

Date of decision: October 3, 1996

NASD Date of Decision: October 3, 1996