

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Robert Thomas Securities, Inc.

95-01209

Name of Respondent

Richard H. James

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CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on March 9, 1995, Claimant Robert Thomas Securities, Inc., through its President Stephen Putnam, Cranston, R.I., alleged that Respondent Richard H. James, made unauthorized trades in Susan and Robert Findesen's ("Findesens") account held by Claimant. Claimant further alleged that the Findesens were guardians for Peter Flenkfelt ("Flenkfelt"), and were responsible for distributing the \$65,000.00 inheritance to him by his 25th birthday. Claimant contended that the clients were satisfied with their account in early 1991, when three bonds were purchased with maturity dates on Flenkfelt's birthday, during which time Respondent was employed by Barclay Investments. Claimant further contended that Respondent engaged in unauthorized trades in the clients' account in August of 1993 and December of 1993, after joining Robert Thomas Securities, Inc. in June of 1992. Claimant alleged that Respondent refused to resolve the matter through Claimant's office, and should indemnify Claimant for the loss it incurred to make the clients whole.

Respondent Richard H. James, who appeared Pro Se, maintained that Claimant called the Findesens and, "related the allegations of unauthorized trading", to her, and recommended that the clients file a complaint against Respondent. Respondent further maintained that after examining the tickets that recorded the unauthorized trades, it was clear that he was not in the office on the date in question, and he did not write the tickets or place the orders with the trading room. Respondent contended that the unauthorized trades were, "an error and not a deliberate act," and the Findesens agreed that a reversal of the trade would satisfy their concerns. Respondent further contended that Claimant solicited the clients complaint by telling them that the trade would not be reversed without clients' formal complaint, and as a result of the above, Respondent should not be held liable in this matter.

**RELIEF REQUESTED**

Claimant Robert Thomas Securities, Inc., requested actual damages in the amount of \$6,621.40, plus interest and costs.

Respondent Richard H. James, requested that the claims of the Claimant Robert Thomas Securities, Inc., be dismissed in their entirety.

**AWARD**

Pursuant to Section 10 the NASD, Inc. Code of Arbitration Procedure, a single Industry Arbitrator, John D. Hughes, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on February 21, 1995 and not by the Respondent as required by Sections 8 and 10 of the NASD Code of Arbitration Procedure.

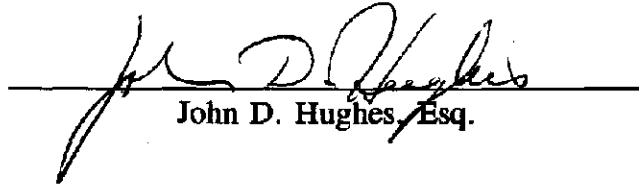
And, the Arbitrator, having considered the proof of the parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. The Respondent Richard H. James, is liable and shall pay the Claimant Robert Thomas Securities, Inc., \$6,046.40.
2. The Respondent Richard H. James, is liable and shall pay the Claimant Robert Thomas Securities, Inc., interest at the rate of 6% per annum, from December 21, 1994 to date of payment of the Award.
3. The parties shall bear their respective costs.
4. All other relief requests are denied.
5. The \$575.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Robert Thomas Securities, Inc., shall be retained by the NASD, Inc. The Respondent Richard H. James is liable and shall pay the Claimant Robert Thomas Securities, Inc. \$575.00 as reimbursement of the filing fee.

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**AFFIRMATION**

I, JOHN D. HUGHES ESQ., do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my award.

  
John D. Hughes, Esq.

Date of Decision: August 17, 1995