

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Mustak Vohra and Marilyn Pagan

95-01935

Name of Respondents

**Robert W. Villaflor;
Stephen A. Medich;
Regal Discount Securities, Inc.**

REPRESENTATION

For Claimants: Mustak Vohra ("Vohra") and Marilyn Pagan ("Pagan") appeared pro se.

For Respondent: Stephen A. Medich ("Medich") and Robert A. Villaflor ("Villaflor") appeared pro se and represented Respondent Regal Discount Securities, Inc. ("Regal").

CASE INFORMATION

Statement of Claim filed: April 21, 1995.

Claimants' Submission Agreement signed on: April 18, 1995.

Statement of Answer filed by Respondents on: July 13, 1995.

Respondents' Submission Agreements signed on: July 13, 1995.

HEARING INFORMATION

Pre-Hearing Conference:

None Held.

Hearing Date/Sessions:

March 1, 1996 for One (1) session.

Hearing Location:

Chicago, Illinois.

CASE SUMMARY

Claimants alleged that Respondents failed to timely execute an order for stock in Data General, resulting in a loss of profits. The Claimants specifically alleged that:

- 1. On April 11, 1995 at approximately 11:30 AM, Vohra spoke with Villaflor and, having asked what Data General was trading at, ordered the purchase of 1,000 shares after being told that the price was 7 7/8. Villaflor corrected the amount,**

saying that the asking price was 8 per share, and Vohra agreed to purchase 1,000 shares at that price. Villaflor verbally confirmed the purchase and Vohra agreed to send the check for \$8,029.00;

2. Approximately 10 to 15 minutes later, Villaflor called back and advised that the order was not executed. He advised Vohra that the stock was now trading at 8 3/4 per share and that his order was again open for execution;

3. Vohra was not pleased and contacted the firm management, speaking with Medich. Medich advised Vohra that the decision of the firm would stand; and

4. The stock ultimately reached as high as 9 per share.

Respondents denied owing Claimants any sums based upon this claim, alleging that:

1. At the time Vohra placed his order, Dan Dorfman of CNBC had just recommended the stock, causing the stock to become extremely volatile and delaying quotes and priced;

2. Vohra was quoted the price directly from the monitor, immediately entered the order and reported the purchase. When the broker realized the error, he notified Vohra immediately and informed him that the purchase price had gone beyond the 8 per share Vohra had requested. Therefore, Vohra could not have made the purchase at 8 per share even when he entered his order; and

3. There is no assurance that the stock would have been sold at a higher price than purchase.

RELIEF REQUESTED

Claimants requested entry of an award against Respondents for damages in the sum of approximately \$1,000.00.

Respondents requested that the claim be dismissed.

OTHER ISSUES CONSIDERED & DECIDED

The Arbitrator specifically finds that:

Respondents, while negligent in erroneously advising Claimants of the fill which did not occur, did advise Claimants within 15 minutes of the error and Claimants were not damaged by the error because the order could not have been filled at the Claimants' price at the time it was placed, or at any subsequent time on April 11,

1995.

The parties have agreed that a handwritten, signed Award may be entered. In this case, the parties have agreed to receive a conformed copy of the Award while the original remains on file with the NASD.

AWARD

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

1. The Statement of Claim is dismissed with prejudice and denied in its entirety;
2. The parties shall bear their own costs of arbitration, including any attorneys' fees, except for those specifically enumerated herein; and
3. Any relief not specifically awarded is hereby denied.

OTHER COSTS

The NASD shall retain the Section 45 surcharge in the sum of \$100.00 previously paid by Respondent Regal Discount Securities, Inc.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed: One (1) hearing session x \$15.00 per session = \$15.00.

The National Association of Securities Dealers, Inc. shall retain the non-refundable claim filing fee of \$15.00 paid by the Claimants, Mustak Vohra and Marilyn Pagan. In addition, the NASD shall retain the hearing session deposit of \$15.00 previously paid by the Claimants, Mustak Vohra and Marilyn Pagan, as payment of the forum fee. Fees are payable to the National Association of Securities Dealers, Inc.

Arbitrator's Signature
Name

Date

/s/ Herbert S. Channick, Esq.
Herbert S. Channick, Esq.
Public Arbitrator

March 27, 1996

For NASD Use Only: Date of Service: March 27, 1996