

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Henry H. Wohl

95-02156

Name of Respondents

Tucker Anthony, Inc.
John T. Wagner

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on May 3, 1995, Claimant Henry H. Wohl ("Claimant"), who appeared Pro Se, alleged that Respondents John T. Wagner ("Wagner"), and Tucker Anthony, Inc. ("TAI"), made an unauthorized transaction in his account located at TAI. Claimant further alleged that he had purchased and sold shares of Novell ("NOV") through Wagner on two occasions but had not authorized him to purchase for him a third time. Claimant contended that he said to Wagner that he "might" be interested in the stock a \$27 1/2 per share and that Wagner had taken his comment to mean that he wanted the shares at that price. Claimant further contended that it was more than four weeks after the transaction before Wagner notified him of the trade which he paid for reluctantly. Claimant alleged that TAI obstructed his efforts to investigate the transactions and that as a result of the above, he has suffered a loss for which the Respondents should be held liable.

Respondents John T. Wagner and Tucker Anthony, Inc., through their representative and in-house counsel, Gerri L. Seigel, Esq., maintained that the Claimant's allegations are made without an attempt to support them. Respondents further maintained that the Claimant paid for the alleged unauthorized trade in a timely fashion and made another purchase of NOV more than a month later. Respondents contended that Wagner lowered his commission on the alleged unauthorized purchase in order to meet the \$27 1/2 per share order that the Claimant had placed which demonstrates that the order was indeed placed. Respondents further contended that the Claimant's reasoning about the transactions in his account are implausible and that as a result of the above, they should not be held liable.

RELIEF REQUESTED

Claimant Henry H. Wohl, requested \$9,880 in actual damages.

Respondents John T. Wagner and Tucker Anthony, 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, Michael G. Shannon, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant Henry H. Wohl, on June 1, 1995, and by the Respondent Tucker Anthony, Inc., on August 14, 1995, and not by John T. Wagner, as required by Sections 12 and 13 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 claims of the Claimant Henry H. Wohl, against Respondents John T. Wagner and Tucker Anthony, Inc., are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. All other relief requests are denied.
4. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Henry H. Wohl, shall be retained by the NASD, Inc.

AFFIRMATION

I, MICHAEL G. SHANNON, 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.



Michael G. Shannon, Esq.

DATE OF DECISION: October 6, 1995