

NASD AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Name of Claimant

A. Kent Johnson

and

95-03796

Name of Respondent

Joseph Roberts & Co., Inc.
Michael Knight

REPRESENTATION OF PARTIES

A. Kent Johnson ("**Claimant**") appeared *pro se*.

Joseph Roberts & Co., Inc. ("**Respondent Joseph Roberts**") and Michael Knight ("**Respondent Knight**") (collectively as "**Respondents**") were represented by Paul Bazil, Esq., Pickard & Djinis, Washington, D.C.

CASE INFORMATION

The Statement of Claim was filed on or about August 7, 1995. Submission Agreement of Claimant A. Kent Johnson was signed on August 2, 1995.

Statement of Answer was filed by Respondents Joseph Roberts & Co., Inc. on or about September 27, 1995. Submission Agreement of Respondent Joseph Roberts & Co., Inc. was signed on August 16, 1995 by Robert B. DiMarco, Jr.

CASE SUMMARY

Claimant alleged that he had agreed to purchase 3,000 additional shares of Novatek International Inc.

on the condition that a stop loss sell agreement to sell his total investment of 5200 shares at \$6 per share which would result in a total loss of approximately \$1,000. Claimant alleged that his condition was agreed to and confirmed during the conversation with Michael Knight of Joseph Roberts & Co.

Respondents denied the allegations set forth in the Statement of Claim. Respondents specifically stated that the Claimant did not enter a stop limit order as evidenced by the tape recorded conversation with the confirmation desk. Additionally, respondents stated that the Claimant had submitted payment after contacting the firm regarding the alleged stop limit order.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested an award in the amount of \$14,950. The Claimant by letter dated September 15, 1995, requested an award in the amount of \$7,800.

Respondents requested that the claims asserted against them be denied.

OTHER ISSUES CONSIDERED & DECIDED

Respondent Michael Knight did not file with the NASD a properly executed submission to arbitration but is required to submit to arbitration pursuant to §12 of the NASD Code of Arbitration Procedure (the "Code") and having answered the claim is bound by the determination of the arbitrator on all issues submitted.

AWARD

Pursuant to §13 of the NASD Code of Arbitration Procedure, a single public arbitrator, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration. The undersigned arbitrator having considered the submissions of the parties has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents Joseph Roberts & Co., Inc. and Michael Knight shall be and hereby are jointly and severally liable for and shall pay to the Claimant the sum of **two thousand six hundred dollars (\$2,600)**. Claimant's requested damages of \$7,900, based upon a loss of \$1.50 per share on 5200 shares of the underlying security are reduced to \$.50 per share in view of Claimant's failure to mitigate his damages by the selling the security at \$5.50 per share when

he learned of the failure of Respondent to enter a stop loss order. The \$.50 per share is the difference between \$6.00 per share (the stop limit order) and \$5.50 per share. The damages are therefore 5200 @ \$.50 per share for a total of \$2,600.

2. Interest at the rate of 8% per annum is awarded on the above stated sum from and inclusive of May 30, 1995 to and inclusive of the date this award is paid in full.
3. Each party shall bear its own costs, expenses and attorneys' fees incurred in this matter, if any, not specifically enumerated herein.

FORUM FEES

Pursuant to §43(c) of the NASD Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. ("NASD") shall **retain** the non-refundable filing fee in the amount of \$75 and shall **refund** the hearing session deposit in the amount of \$200 previously deposited with the NASD by the Claimant A. Kent Johnson. Respondents Joseph Roberts & Co., Inc. and Michael Knight shall be and hereby are jointly and severally liable for and shall pay to the NASD the sum of \$75 as forum fees.

Pursuant to §45 of the NASD Code of Arbitration Procedure, the NASD shall **assess** the non-refundable member surcharge in the amount of \$200 against Respondent Joseph Roberts & Co., Inc. **Fees are payable to the National Association of Securities Dealers, Inc.**

Dated:

/s/ Steven Meyrich, Esq.

Steven Meyrich, Esq.

Public Arbitrator, Presiding Chair

May 7, 1996