

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Gateway Capital Investment Group, Inc.

95-04647

Name of Respondent

The Third Market Corp.

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on October 2, 1995, Claimant Gateway Capital Investment Group, Inc., through its representative and CEO, Gene Wolfson, alleged that Respondent The Third Market Corp. contracted with Claimant to execute trades of securities listed on the New York Stock Exchange at a commission rate of 1.25 cent per share for the first 500,000 shares and 1 cent per share for any additional shares. The Claimant further alleged that Respondent requested to pay the outstanding balance in installments, due to hardship, which the Claimant agreed to, but that Respondent has failed to remit the balance remaining for trades executed by Claimant for Respondent from March 1, 1995 to June 1, 1995. Claimant contended that as a result of the above, it has suffered a loss for which the Respondent should be held liable.

Respondent The Third Market Corp., through its representative and vice president, John Hosty, maintained that it agrees to pay \$1,356.95 to the Claimant, and that it has tried to pay the outstanding balance, but has been "rebuffed".

RELIEF REQUESTED

Claimant Gateway Capital Investment Group, Inc., requested \$1,356.95 in actual damages and \$2,500.00 in punitive damages, plus \$222.33 in interest and \$1,000.00 in legal consultation fees, along with reimbursement of the NASD filing fee.

Respondent The Third Market Corp. agreed to repay \$1,356.95 in actual damages to the Claimant.

AWARD

Pursuant to Section 10 of the NASD, Inc. Code of Arbitration Procedure, a single Industry Arbitrator, James R. Madan, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant Gateway Capital Investment Group, Inc., on September 27, 1995, and by Respondent The Third Market Corp., on February 8, 1996.

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. Respondent The Third Market Corp., is liable and shall pay to the Claimant Gateway Capital Investment Group, Inc., \$1,356.95 in actual damages.
2. Respondent The Third Market is liable and shall pay to the Claimant Gateway Capital Investment Group Inc. \$61.07, representing simple interest at the rate of 9% per annum from August 31, 1995 to February 29, 1996.

3. The parties shall bear their respective costs and attorneys' fees.

3. The \$575.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Gateway Capital Investment Group, Inc., shall be retained by the NASD, Inc. Respondent The Third Market Corp., is liable and shall pay to the Claimant Gateway Capital Investment Group, Inc., \$575.00 as reimbursement of the filing fee.

AFFIRMATION

STATE OF *New York*

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SS:

COUNTY OF

I, *James L. Madam*, 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.

James L. Madam

Signature of Arbitrator

DATE OF DECISION: March 7, 1996