

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

---

In the Matter of the Arbitration Between

Name of Claimant

Jon Michael Drancik

95-05429

Name of Respondent

National Discount Brokers

---

**CASE SUMMARY**

In a claim filed with the National Association of Securities Dealers, Inc. on November 17, 1995, Claimant Jon Michael Drancik ("Claimant"), who appeared Pro Se, alleged that Respondent National Discount Brokers ("Respondent") failed to properly execute his orders to sell shares of Network Peripherals ("NPIX") on November 6, 1995. Claimant further alleged that he placed an limit order to sell 2,500 shares of NPIX but later called to cancel it on its Powerbroker service. Claimant contended that he was unsuccessful with Powerbroker so he called an NBD trader changing the order to sell only 1,000 shares but at a higher price. Claimant further contended that he received a phone call confirming the 1,000 share sale and a short time later another call confirming the sale of the canceled 2,500 share sell order. Claimant alleged that Mike Drumney, Respondent's head trader, confirmed that the 2,500 shares were sold 6 minutes after his cancellation which both agreed was improper. Claimant further alleged that he was unable to get an acceptable resolution with the Respondent and that as a result of the above, he has suffered a loss for which the Respondent should be held liable.

Respondent National Discount Brokers through its representative and compliance officer, Seth Rosen, maintained that the only issue in dispute is whether the six minute period after the cancellation of the sell order was a reasonable length of time within which effect the cancellation. Respondent further maintained that Claimant entered a sell order for 2,500 shares of NPIX, placed a cancellation request, and entered a second sell order for 1,000 shares of NPIX before receiving confirmation of the cancellation request. Respondent contended that the 1,000 share sale was done--at a more favorable price--because of human error and as a gesture of goodwill, Claimant was given the benefit of the proceeds from that sale. Respondent further contended that had Claimant wished to own 1,500 shares of NPIX, he could have taken the proceeds from the sale and purchased the shares on the market. Respondent maintained that Claimant now seeks the benefit of ownership without having risked his own capital and that as a result of the above, it should not be held liable.

**RELIEF REQUESTED**

Claimant Jon Michael Drancik, requested \$4,312.50 in actual damages plus \$5,000.00 punitive damages plus costs and filing fees.

Respondent National Discount Brokers, 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, Robert J. Downing, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on November 13, 1995, and by the Respondent on January 9, 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. The claims of the Claimant Jon Michael Drancik against Respondent National Discount Brokers are denied in their entirety.
2. The parties shall bear their respective costs.
3. The \$125.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc.

**AFFIRMATION**

I, **ROBERT J. DOWNING, 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.



Robert J. Downing, Esq.

DATE OF DECISION: April 25, 1996