

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Evelyne M. Litz

96-00986

Name of Respondent

National Financial Services Corporation

CASE SUMMARY

In a claim filed with the National Association of Securities Dealer, Inc. on March 4, 1996, Claimant Evelyn M. Litz ("Claimant"), who appeared Pro Se, alleged that Respondent National Financial Services Corporation ("Respondent") failed to execute a trade. Claimant further alleged that she placed an order through Respondent's representative to sell 35,000 shares of Applied International Holdings at \$.49 per share on February 1, 1994. Claimant also alleged that she received control number DLE 1253 confirming the transaction. Claimant asserted that she called the Respondent later that day and was informed that the sale had definitely been completed. Claimant further asserted that upon receiving her monthly statement, she discovered that the sale was not recorded so immediately sold it at \$.39 a share. Claimant contended that upon her request, Ms. Kathleen Saver, Respondent's representative, initiated a search of their phone records and concluded that she was notified that the trade did not occur. Claimant contended that contrary to Ms. Saver's interpretation of the phone records, she was not notified. Claimant further contended that if the Respondent had notified her that the sale was not completed, she would have immediately reissued a sell order. Claimant also contended that due to the wrongdoing of the Respondent, she suffered damages for which the Respondent should be held liable.

Respondent National Financial Services Corporation ("Respondent"), through its representative and in-house counsel, Suzanne R. Michaud, Esq., maintained that the Claimant did not receive a call informing her that her sell order was completed. Respondent further maintained that Claimant failed to provide it with the alleged representative's name or the day and time of the call, therefore, the claim cannot be verified. Respondent also maintained that the Claimant had notice and failed to act when she did not receive the confirmation of the sell order in the mail. Respondent contended that Claimant's 3 week delay in challenging the sell order indicates, that

her purpose was to recover losses created by the drop in the stock price. Respondent further contended that Claimant's \$.48 limit could not have been executed as the bid price of the stock never reached that level. Respondent also contended that it committed no wrongdoing and requested that the claims against it be dismissed.

RELIEF REQUESTED

Claimant Evelyne M. Litz requested \$3,500.00 in actual damages and filing fees.

Respondent National Financial Services Corporation 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, Barbara Kornreich, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant Evelyne M. Litz on February 28, 1996 and by the Respondent National Services Financial Corporation on June 3, 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 Claimant Evelyne M. Litz against Respondent National Services Financial Corporation are dismissed 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 Dealer, Inc. by the Claimant Evelyne M. Litz shall be retained by the NASD, Inc.

AFFIRMATION

I, **BARBARA KORNREICH**, 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.


BARBARA KORNREICH

Date of Decision: September 23, 1996