

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration BetweenName of Claimant

Claude R. Breese

96-02796

Name of Respondent

Investors Associates, Inc

CASE SUMMARY

In a case filed with National Association of Securities Dealers Regulation, Inc. on June 28, 1996, claimant Claude R. Breese ("claimant") who appeared Pro Se, alleged that respondent Investor; Associates Incorporated ("Investors") fraudulently represented that he had purchased 2,000 shares of Compare Generics ("Compare") warrants. Claimant further alleged that in February 1996, he received an unsolicited a call from Robert Cassino ("Cassino") from respondent's Great Neck office offering to sell an upcoming IPO for Compare. Claimant also alleged that on March 18, 1996 Cassino sent him a letter confirming his purchase of 2,000 Compare warrants at \$4.75 each. Claimant asserted that on April 19, he went to sell the warrants at the bid price of \$6.75, but found out that respondent had not purchased the warrants.

Respondent Investors Associates, Inc. ("respondent") through its representative and counsel M. David Sayid, Esq. of the law firm Sayid and Associates located in Hackensack, New Jersey, maintained that claimant was forwarded a pre-confirmation not an actual confirmation. Respondent further maintained that the pre-confirmation that claimant received was to inform him of the amount that was due in connection with claimant's purchase of 100 shares of Wendy's International at 18 1/8. Respondent also maintained that after securities are purchased or sold, an actual confirmation is generated by the clearing, firm and forwarded directly to the customer. Respondent contended that the reason why the pre-confirmation is forwarded to a customer is due to the trade date plus three settlement date requirement ("T+3"). Respondent further contended that the March 18, 1996 letter claimant received was a pre-confirmation to inform him that he must have his funds into Investors by T+3 date or March 21, 1996. Respondent also contended that the money market funds were purchased on March 29, 1996, and that the check appears to have arrived into Investor's eight days late.

Respondent maintained that on March 20, 1996 Cassino contacted claimant and informed him that the security was not at 4 3/4 per share and that if he wanted the 2000 shares, it would be at 5 1/8 per share. Respondent further maintained that the 3/8 per share difference would cost claimant an additional \$650.00 in order to purchase 2000 warrants of Compare. Respondent also maintained that claimant stated he was going to hold his position and believed that he owned 2000 shares of Compare, without sending the additional \$650.00. Respondent contended Cassino told claimant that if the additional funds were not forthcoming, he would have no other choice but to put his funds into the firm's money market fund. Respondent further contended that the date in which claimant wanted to sell his alleged position, he would have potentially sold said position at approximately \$5 per share. Respondent also contended that claimant has not lost any of his principal fund and that to date, claimant cannot

produce a confirmation or an account statement for Investors reflecting that he actually owns 2000 shares of Compare.

RELIEF REQUESTED

Claimant Claude R. Breese requested: (1)\$2,000.00 in the profits he was deprived; (2)Interest in the amount of 9%, New York's legal rate from April 19, 1996; and (3)\$1,000 in punitive damages.

Respondent Investors Associates, Inc. requested that the claims of the claimant be dismissed in their entirety, plus costs, fees, expenses and reasonable attorneys' fees in an amount no less than \$5,000.00.

AWARD

Pursuant to Section 10302 of the Code of Arbitration Procedure, a single Public Arbitrator, Joel Arogeti, was selected to review the matter in controversy between the parties set forth in submissions to arbitration signed by the claimant Claude R. Breese on June 26, 1996 and by respondent Investors Associates, Inc. on July 17, 1996 as required by Sections 10301 and 10302 of the Code of Arbitration Procedure.

And, the Arbitrator, having considered the proof of the parties, had decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Respondent Investors Associates, Inc. be and hereby is liable and shall pay claimant Claude R. Breese the sum of \$2,000.00, interest specifically excluded.
2. All other relief requests are denied.
3. The \$125.00 filing fee previously deposited by claimant with National Association of Securities Dealers Regulation, Inc. shall be retained by the Association. Respondent Investors Associates, Inc. be and hereby is liable and shall pay claimant the sum of \$125.00 as reimbursement of the filing fee.

AFFIRMATION

I, Joel Arogeti, 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.



Joel Arogeti, Esq.

Date of Decision: November 27, 1996