

N.A.S.D. REGULATION AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

L. Stanley Carne, II

96-05576

Name of Respondents

First Associated Securities Group, Inc.
David Vangorder

CASE SUMMARY

In a case filed with National Association of Securities Dealers Regulation, Inc. on December 16, 1996, claimant L. Stanley Carne, III ("claimant"), who appeared Pro Se, alleged that respondents First Associated Securities Group, Inc. ("FAS") and David Vangorder ("Vangorder") made two unauthorized trades in his account. Claimant further alleged that the first trade done without his authorization was the sale of 1050 shares of Drypers Corp. ("Drypers"). Claimant also alleged that the second trade was executed after Vangorder realized he had made an error in his account. Claimant asserted that Vangorder bought 800 shares of Drypers. Claimant further asserted that the reason why there was a 250 share difference was a result of insufficient funds held in his account, due to the commissions of these two unauthorized trades. Claimant also asserted that he let Vangorder know his disapproval of these transaction when he received the confirmation notice on December 18, 1995. Claimant contended that Vangorder said he was acting in his best interest when he made the sale, since the stock price had dropped a considerable amount that morning.

Respondent FAS through its representative and President Carl Martellaro, maintained that Vangorder recommended that claimant sell his Drypers shares due to the stock price dropping and to preserve a profit. Respondent FAS further maintained that according to Vangorder, claimant approved the sale. Respondent FAS also maintained that later that day, Drypers began to move back up and claimant asked if he could buy the stock back. Respondent FAS contended that at claimant's request, Vangorder bought 800 shares of Drypers. Respondent FAS further contended that these transaction took place in December of 1995. Respondent FAS also contended that claimant did not notify them or the broker of any concerns he had over these transaction until November 1996.

Respondent Vangorder, who appeared Pro Se, maintained that on December 15, 1995, 1050 shares of Drypers were sold at a net price of \$3.00 per claimant's approval. Respondent Vangorder further maintained that on December 15, Drypers common stock had been dropping quickly and he had been communicating with claimant throughout the morning. Respondent Vangorder also maintained that he recommended that claimant sell the shares at 4 1/2 to preserve a profit. Respondent Vangorder contended that the stock continued to drop and claimant decided to sell the stock at 3 1/8 in fear of losing a profit and to ensure that he made a profit on the stock. Respondent Vangorder further contended that later that

he could buy the stock back. Respondent Vangorder also contended that he told claimant that although he realized a profit the asking price was now higher than where he sold the stock. Respondent Vangorder maintained that claimant asked him to buy 800 shares of Drypers at 3 5/8. Respondent Vangorder further maintained that these transactions were done with claimant's complete knowledge, request and approval.

RELIEF REQUESTED

Claimant L. Stanley Carne, III requested: (1) \$537.55 in damages; (2) \$15.00 for reimbursement of filing fee; and (3) \$15.00 reimbursement of the hearing session deposit.

Respondent FAS requested that the claims of claimant be dismissed in their entirety.

Respondent Vangorder requested that the claims of claimant be dismissed in their entirety.

AWARD

Pursuant to Rule 10302 of the Code of Arbitration Procedure, a single Public Arbitrator, Robert Gleichenhaus, Esq., was selected to review the matter in controversy between the parties set forth in Submission to Arbitration signed by claimant L. Stanley Carne, III on December 11, 1996 and by respondents FAS on January 3, 1997 and by Vangorder on January 13, 1997 as required by Rules 10301 and 10302 of the Code of Arbitration Procedure.

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 L. Stanley Carne, III against respondents FAS and Vangorder are dismissed in their entirety.
2. All other relief requests are denied.
3. The \$30.00 filing fee previously deposited by claimant shall be retained by NASD

AFFIRMATION

I, Robert Gleichenhaus, Esq., do hereby affirm upon my oath as arbitrator that I am the individual described herein that executed this instrument, which is my oath and award.


Robert Gleichenhaus, Esq.

Date of Decision: May 7, 1997