

solicitor didn't want it. He used the \$500 received as his own, and did not pay it to anybody as the price of shares in the company; he never offered her certificates for any shares; he never had them to offer; the only thing he had was his agreement; on the 27th July, 1908, he received a letter from the solicitor of the plaintiff that his authority to buy shares was revoked, and requiring him to return the \$500, which he refused to do.

Taking the admissions in the pleading and the examination together, it sufficiently appears that the defendant, having instructions from the plaintiff to buy for her 500 shares of the capital stock of the company, and having received \$500 from her for that purpose, did not buy for her 500 shares at all, but bought for himself 2,000 shares of pooled stock, out of which he intended to give her 500 shares (as being bought from himself) when the stock should be issued—and that, the defendant not having carried out his instructions exactly, his authority was revoked, and the money demanded back. . . .

[Reference to *Bentley v. Craven*, 18 Beav. 75, 77; *Pariente v. Lubbock*, 20 Beav. 588, 592; *Gillett v. Peppercorne*, 3 Beav. 78, 83; *Robinson v. Mollett*, L. R. 7 H. L. 802, 815, 836, 838; *Connée v. Securities Holding Co.*, 38 S. C. R. 615; *Selsey v. Rhoades*, 2 Sim. & Stu. 41, 1 Bli. N. S. 1; *Lowther v. Lowther*, 3 Ves. 95, 103; *Molony v. Kernan*, 2 Dr. & War. 31, 38, 39.]

It may well be that, had the defendant seen fit to give evidence, he might have shewn not only perfect good faith on his part, but also full information given, but he has not done so. He makes the statement in a letter, but does not swear to it.

In any view of the case, upon this evidence the plaintiff is entitled to judgment. I follow the decision in *Gillett v. Peppercorne*, and direct judgment to be entered for the sum of \$500 and interest at 5 per cent. from the day of the receipt of the cheque of Mrs. Johnson by the defendant—which appears to be the 24th August, 1906. (Interest to the 10th June, 1910, computed at \$94.86). The plaintiff is also entitled to costs; and, as the action was begun before the Act 10 Edw. VII. ch. 30. (O.), the costs should not be affected by the passing of that Act.