

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

EKKEHARD SAHM

Claimant(s)

and

R. B. MARICH, INC.

Respondent(s)

CASE NO. 88-03939

CASE SUMMARY

Ekkehard Sahn ("Claimant") alleged that R. B. Marich, Inc. ("Respondent") made certain misrepresentations to the Claimant in order to induce the Claimant to make a \$125,000 bridge loan to ACSI in order to help facilitate a merger between ACSI and Hal-Rad, Inc. Claimant further alleged that the Respondent was liable for breach of fiduciary duty, violations of federal and state securities laws, negligence, breach of contract, breach of fair dealing, and failure to properly document the loan.

Respondent denied all the claims of the Claimant and further alleged that the Claimant did not rely on the representations made by the Respondent since the Claimants knowledge, was equal to or greater than that of the Respondent.

Further, Respondent alleged that the \$125,000 was not the money of the Claimant and is barred from any relief by failing to state a claim upon which relief can be granted. Claimant also failed to mitigate his damages and was contributorily negligent.

RELIEF REQUESTED

Claimant requested damages of \$125,000, pre and post-judgment interest, and attorneys' fees and costs. Respondent requested that all the claims of the Claimant be dismissed.

AWARD

On December 27, 1988 the Claimant filed his claim with the NASD. On October 23 and 24, 1989, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on December 21, 1988 by Thomas G. Kimmel on behalf of the Claimant and on February 22, 1989 by Betty J. Marich on behalf of Respondent. The hearing was held in Denver, Colorado in three sessions.

The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has decided in full and final resolution of the issues submitted for determination as follows:

1. All of the claims asserted by the Claimant against the Respondent are dismissed in all respects.

2. The parties shall bear their own costs including attorneys' fees.

3. Pursuant to Section 43(b) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain as forum fees, the \$750.00 filing fee previously deposited with the NASD by the Claimant, plus the Claimant shall pay an additional \$375.00 for forum fees and the Respondent R. B. Marich, Inc. shall pay \$1,125.00 in forum fees. All forum fees shall be paid to the NASD through its staff counsel.

By the Panel

Dated: 11-10-89

/S/ Robert W. Smedley, Esq.
Presiding Chair

Dated: 11-10-89

/S/ John J. King, Jr. Esq.

Dated: 11-14-89

/S/ Eugene M. Osman

Date Served: 11-24-89