

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between)
CHARLES AND KAREN VON HORTENAU)
Claimant(s))
and)
BLINDER, ROBINSON & CO.)
Respondent)

CASE NO. 89-00005

CASE SUMMARY

In a claim filed on or about April 11, 1989, the Claimant's alleged, that the Respondent recommended the purchase of restricted stock in a company which the Respondent would be bringing public in the future. The Claimants stated that they were given inaccurate information and that the Respondent's failure to perform adequate due diligence into the company caused them damages when the company failed.

The Respondent stated that the registered representative associated with their North Miami office was an independent contractor and therefore not an employee of Blinder Robinson & Co. The Respondent alleged that the real parties in interest were not named; that the claim was not timely filed pursuant to the Colorado Statute of Limitations; and that Blinder Robinson never received any funds from the Claimants in connection with the purchase of this stock.

RELIEF REQUESTED

Claimants sought the return of the \$10,000 invested. The Respondent asked that all claims be dismissed.

AWARD

On September 19, 1989, in Denver, Colorado during a hearing lasting one session, the undersigned heard the controversy between the parties as set forth in a submission to arbitration signed on April 3, 1989 by the Claimants and in the Respondent's Answer dated July 26, 1989 and Amended August 28, 1989. The Respondent did not file a uniform submission agreement, but is required to submit this controversy to arbitration pursuant to the NASD By-Laws and by Section 12(a) of the Code of Arbitration Procedure and is therefore bound by this award.

Having considered the pleadings, the testimony, and the evidence presented at the hearing, I have decided in full and final resolution of the issues submitted for determination as follows:

1. The Colorado 3 year Statute of Limitations, cited by the Respondent as an affirmative defense, is applicable to the facts of this case and acts as a bar to this action. All claims of the Claimants are therefore dismissed in all respects;

2. Each party shall bear its own costs and expenses; and

3. Pursuant to Section 43(b) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall refund \$100.00 of the filing fee previously deposited with the NASD by the Claimants and shall charge \$100.00 to the Respondent.

Presiding Arbitrator

Dated:

September 27, 1979 ISI Thaddeus J. Tecza, Ph.D.