

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

DONALD L. CLARK

Claimant

and

SUMMIT INVESTMENT CORP. and  
PHILLIP T. HUSS

Respondents

CASE NO. 89-00061

CASE SUMMARY

Donald L. Clark ("Claimant") alleged that Summit Investment Corporation ("Respondent Summit") and Phillip Huss ("Respondent Huss") made misrepresentations attendant to the investment in Tri Coast Environmental and Synergetics. Specifically, Claimant alleged that he was not fully apprised of the risks relating to the investments. Specifically, Claimant alleged that he was not fully apprised of the risks relating to the investments which are the subject of this claim.

Respondent Summit generally denied the allegations as set forth in the Statement of Claim. Affirmatively, Respondent Summit stated that Claimant authorized and had knowledge and appreciation of the risks inherent in the purchase and sale of the securities involved. Respondent Summit alleged that Claimant was suitable for the securities transactions involved in relation to the investment objectives indicated on the new account information received by Respondent Summit. Respondent Summit alleged that the Claimant failed to State a Claim for which relief may be granted. Further, Claimant ratified the purchase of the securities by continuing to hold the securities in his account. Respondent Summit affirmatively alleged that it had no knowledge of any improper representations by Respondent Summit regarding Pro-Care, Tri-Coast or Synergetics.

Respondent Huss generally denied the allegations set forth in the Statement of Claim. Affirmatively, Respondent Huss alleged that by continuing to hold the securities, Claimant ratified the purchase of the subject stocks and therefore has waived all claims therein. Further, Respondent Huss alleged that Claimant was fully apprised of the risks related to the investment. Respondent Huss specifically denied making any improper investment recommendations; denied having withheld any known material information from Claimant; denied having failed to follow any of Claimant's instructions; and denied having failed to respond to Claimant's contacts.

### RELIEF REQUESTED

Claimant requested damages in the amount of \$21,629.00 in exchange for which Claimant will surrender 2,000 shares each of Tri-Coast Environmental and Synergetics.

Respondent Summit requested that the Statement of Claim be dismissed.

Respondent Huss requested that the Statement of Claim be dismissed and that all costs of this proceeding be assessed against the Claimant.

### AWARD

On January 9, 1990 in Chicago, Illinois during a hearing lasting two sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on December 13, 1988 by Claimant Donald L. Clark, on December 27, 1989 by Robert Abrams on behalf of Respondent Summit Investment Corporation and on January 8, 1990 by Respondent Phillip T. Huss.

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. Respondent Summit Investment Corp. and Respondent Phillip T. Huss are jointly and severally liable to the Claimant Donald L. Clark and shall pay as damages the sum of Twelve Thousand Nine Hundred Dollars and No Cents (\$12,900.00);

2. Each party will bear its costs of this proceeding; and

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 \$400.00 filing fee previously deposited with the NASD by the Claimant Donald L. Clark. No additional forum fees are assessed against any party to this proceeding.

Presiding Chair

Dated: \_\_\_\_\_

/S/

Hubert H. Nexon, Esq.  
Presiding Chair

Dated: Feb 22, 1990

/S/

Philip P. Rummel  
Mr. Philip P. Rummel

Dated: \_\_\_\_\_

/S/

Mr. Denis A. Dunne

### RELIEF REQUESTED

Claimant requested damages in the amount of \$21,629.00 in exchange for which Claimant will surrender 2,000 shares each of Tri-Coast Environmental and Synergetics.

Respondent Summit requested that the Statement of Claim be dismissed.

Respondent Huss requested that the Statement of Claim be dismissed and that all costs of this proceeding be assessed against the Claimant.

### AWARD

On January 9, 1990 in Chicago, Illinois during a hearing lasting two sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on December 13, 1988 by Claimant Donald L. Clark, on December 27, 1989 by Robert Abrams on behalf of Respondent Summit Investment Corporation and on January 8, 1990 by Respondent Phillip T. Huss.

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. Respondent Summit Investment Corp. and Respondent Phillip T. Huss are jointly and severally liable to the Claimant Donald L. Clark and shall pay as damages the sum of Twelve Thousand Nine Hundred Dollars and No Cents (\$12,900.00);

2. Each party will bear its costs of this proceeding; and

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 \$400.00 filing fee previously deposited with the NASD by the Claimant Donald L. Clark. No additional forum fees are assessed against any party to this proceeding.

Presiding Chair

Dated: 2/16/90

/S/ Hubert H. Nexon  
Hubert H. Nexon, Esq.  
Presiding Chair

Dated: \_\_\_\_\_

/S/ \_\_\_\_\_  
Mr. Philip P. Rummel

Dated: \_\_\_\_\_

/S/ \_\_\_\_\_  
Mr. Denis A. Dunne

### RELIEF REQUESTED

Claimant requested damages in the amount of \$21,629.00 in exchange for which Claimant will surrender 2,000 shares each of Tri-Coast Environmental and Synergetics.

Respondent Summit requested that the Statement of Claim be dismissed.

Respondent Huss requested that the Statement of Claim be dismissed and that all costs of this proceeding be assessed against the Claimant.

### AWARD

On January 9, 1990 in Chicago, Illinois during a hearing lasting two sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on December 13, 1988 by Claimant Donald L. Clark, on December 27, 1989 by Robert Abrams on behalf of Respondent Summit Investment Corporation and on January 8, 1990 by Respondent Phillip T. Huss.

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. Respondent Summit Investment Corp. and Respondent Phillip T. Huss are jointly and severally liable to the Claimant Donald L. Clark and shall pay as damages the sum of Twelve Thousand Nine Hundred Dollars and No Cents (\$12,900.00);

2. Each party will bear its costs of this proceeding; and

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 \$400.00 filing fee previously deposited with the NASD by the Claimant Donald L. Clark. No additional forum fees are assessed against any party to this proceeding.

Presiding Chair

Dated: \_\_\_\_\_

/S/

Hubert H. Nexon, Esq.  
Presiding Chair

Dated: \_\_\_\_\_

/S/

Mr. Philip P. Rummel

Dated: 2/23/90

/S/

  
Mr. Denis A. Dunne