

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between)
JONATHAN B. SMALL,)
Claimant,)
vs.) Case #89-00986
Award
ROBERT MERRIFIELD, MICHAEL GARSON)
and RICHARD MARCHESE,)
Respondents.)

Heard before the member of the Arbitration Panel:

Alexander Eltman, Esq.

CASE SUMMARY

This claim was filed with the NASD, Inc. on March 31, 1989. The hearing was conducted in Fort Lauderdale, Florida on March 19, 1990 with a total of one (1) session.

Claimant, Jonathan B. Small ("Small"), alleged that Respondents, Robert Merrifield ("Merrifield"), Michael Garson ("Garson") and Richard Marchese ("Marchese"), made misrepresentations of material fact to induce Small to purchase penny stock in Genexus International; guaranteed him a 23% return; and, refused to sell upon instruction to do so.

Respondent, Merrifield, denied all allegations of wrongdoing; alleged that he never sold stock to Small; counterclaimed against Small for the cost of his time in defending the arbitration; and, crossclaimed against Garson and Marchese for indemnification.

Respondent, Garson, denied all allegations of wrongdoing; alleged that his recommendations were based upon those of the firm, Power Securities; and, counter-claimed for libel.

Respondent, Marchese, did not file an Answer.

RELIEF REQUESTED

Claimant requested damages in the amount of \$3,750.00. Respondent, Merrifield, requested damages of \$100.00 per hour from Claimant and the other Respondents. Respondent, Garson, requested damages on his counterclaim in the amount of \$2,500.00.

AWARD

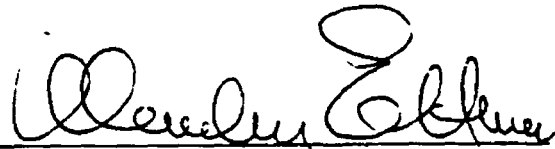
On March 19, 1990, the arbitrator heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant on March 13, 1989, and by Respondent Merrifield on May 22, 1989; by Respondent Garson on May 24, 1989; and not signed by Respondent Marchese as required pursuant to Section 12(a) of the Code. The arbitrator, having considered the pleadings, the testimony, and the evidence presented at the hearing, has determined in full and final resolution of the issues submitted for determination as follows:

1. Respondents, Merrifield, Garson and Marchese, are found not liable to the Claimant and, therefore, all claims against them are hereby dismissed.
2. Claimant/Counter Respondent is found not liable to the Counter/Respondents, Merrifield and Garson, and, therefore, all counter-claims against him are hereby dismissed.
3. Cross Respondents, Garson and Marchese, are found not liable and, therefore, all crossclaims against them are hereby dismissed.
4. Pursuant to Section 43 of the Code of Arbitration Procedure, Claimant is hereby assessed forum fees in the amount of One Hundred and 00/100 (\$100.00) Dollars for which the National Association of Securities Dealers, Inc. shall retain the One Hundred and 00/100 (\$100.00) Dollar filing fee previously deposited by the Claimant in full satisfaction thereof.
5. The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding.

OTHER ISSUES

Pursuant to the record in this matter, the arbitrator found adequate service and due notice to Respondent Marchese.

ARBITRATOR CONCURRING


Alexander Eltman, Esq.

Received this 26th day of March 1990.