

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Kenneth B. & Sheryl Sands

Claimant

and

89-01143

Graystone Nash, Inc.  
Arthur Espinoza

Respondents



REPRESENTATION OF PARTIES

Claimants were pro se.

Respondent Graystone Nash, Inc. was represented by Lester Morse, Esq., Great Neck, New York. Respondent Arthur Espinoza was represented by Allan Lerner, Esq. of Lerner and Pearce, Ft. Lauderdale, Florida.

CASE SUMMARY

In a Statement of Claim filed with the National Association of Securities Dealers, Inc. ("NASD") on or about February 3, 1989, Claimant Kenneth B. & Sheryl Sands ("Claimants") alleged that Respondents Graystone Nash, Inc., through its broker, Respondent Arthur Espinoza, ("Respondents") engaged in unauthorized trading of a security, Human Technologies Capital Corp., which Claimants purchased from Respondents.

More specifically, Claimant alleged that Espinoza called the Claimant by phone and explained that he was a stockbroker for Graystone Nash, Inc. and that an account could be set up for the Claimant's financial future. Claimant consented but alleged that they were unaware of the quantity and price of said security which Espinoza eventually purchased for them.

In a Statement of Answer filed with the NASD on or about January 25, 1990 by Respondent Espinoza, he alleged that at no time did he intentionally or even negligently make any statements to Claimant with the purpose of deceiving him into purchasing said securities. Specifically, Espinoza alleged that he obtained Claimants name from a lead provided by his company, and that after discussions with Claimant, Claimant made it clear that he was willing to accept a moderate risk in terms of the amount of dollars involved, in exchange for an opportunity to participate in an emerging growth investment. Espinoza recommended said security to Claimant, making it clear

that it was a high risk investment but that the company had strong potential. Nevertheless, Espinoza alleged Claimant authorized him to purchase 25,000 shares which was a number that Claimant selected. Espinoza further alleged that when he and Claimant discussed the price of the stock, he explained precisely how the over-the-counter market operated. Espinoza alleged that at no time did Claimant inform him he did not want the stock.

In a Statement of Answer filed with the NASD on or about January 19, 1990 by Respondent Graystone Nash, Inc., Graystone Nash, Inc. denied the allegation set forth in the Statement of Claim. Graystone Nash alleged that the price of said security was not misrepresented to Claimant. A cross-claim against Respondent Espinoza was incorporated in Graystone Nash, Inc. answer.

Respondent Espinoza replied to the cross-claim, specifically denying it.

#### RELIEF REQUESTED

Claimant requested actual damages in the amount of \$4687.50 plus interest, costs, and expenses.

Respondent Arthur Espinoza requested that the claim be dismissed against him, individually.

Respondent Graystone Nash, Inc. requested that the claim be dismissed and that in the event of an award being entered against Graystone, that they be awarded the amount together with interest, disbursements, and legal fees against Respondent Espinoza.

#### PROCEDURAL MATTERS

The arbitrator decided the matter on the papers in Chicago pursuant to Section 13 of the Code of Arbitration Procedure, Simplified Arbitration. The undersigned arbitrator heard the controversy between the parties as set forth in submissions to arbitration signed on April 2, 1990 by Claimants Kenneth & Sheryl Sands, on January 18, 1991 by Thomas Ackerley on behalf of Respondent Graystone NASH Inc., and on January 24, 1990 by Respondent Arthur Espinoza.

#### AWARD

The arbitrator, 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. Respondents, jointly and severally, shall be and hereby are liable for and shall pay to the Claimants actual damages in the amount of Four Thousand Six Hundred Eighty Seven Dollars and Fifty Cents (\$4687.50);
2. No interest shall be awarded on the above sum;
3. The cross-claim shall be and hereby is denied;

4. Each of the parties shall bear their own costs and expenses other than those specifically enumerated herein;

5. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the hearing session deposit in the amount of \$100.00 previously deposited with the NASD by the Claimant.

Dated:

OCT. 22, 1991



James F. McGrath, Esq.  
Presiding Chair  
Public Arbitrator