



Arbitration

National Association of  
Securities Dealers, Inc.  
NASD Financial Center  
33 Whitehall Street  
New York, New York 10004

N.A.S.D AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

---

In the Matter of the Arbitration Between

Name of Claimant

Ralph & Anita Zicherman and Herman Zicherman

vs.

89-01196

Name of Respondent

Mutual Service Corporation and Bruce Carnick

---

CASE SUMMARY

In a claim filed with the NASD on April 21, 1989 Claimants Ralph & Anita Zicherman and Herman Zicherman alleged the Respondent made misrepresentations to them which they relied on and further alleged the Respondent's fraudulent actions constituted a breach of contract and a violation of the Consumer Protection Act.

Respondent Mutual Service Corporation maintained that Bruce Carnick was not a general agent of Mutual Service Corporation and it did not approve any transaction facilitated by Mr. Carnick on behalf of Claimant and denies that Claimants have any valid cause of action against it as it had no direct dealings with any of the Claimants. Respondent Mutual Service Corporation further maintained the Claimants decisions were made without reliance upon any oral representations by Mr. Carnick or Mutual Service Corporation. Respondent Mutual Service Corporation further maintained the Consumer Protection Act and has no bearing on this proceeding.

Respondent Bruce Carnick maintained he had no contractual obligations to Claimants and if any contractual obligations to Claimants existed, he denied that he breached any obligation. Respondent Bruce Carnick further maintained he never made any representations to the Claimants other than those contained in

the Private Placement Memorandum and or Summary, both of which were delivered to the Claimants at their initial meeting with him. Respondent Bruce Carnick further maintained the Consumer Protection Act is inapplicable to this proceeding.

#### RELIEF REQUEST

Claimants requested damages of \$168,000.00 plus attorney's fees of \$5,000.00. Respondent Mutual Service Corporation requested dismissal of claim. Respondent Bruce Carnick requested dismissal of claim.

#### AWARD

On November 12, 1990 the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant(s), Ralph & Herman Zicherman on April 15, 1989 and by Claimant Anita Zicherman on June 16, 1989 and by Respondent Mutual Service Corporation on August 4, 1989 and by Respondent Bruce Carnick on August 10, 1990. The hearing was conducted in Detroit, Michigan and consisted of two hearing sessions. The arbitration panel, having considered the pleadings, and testimony, and the evidence presented at the hearing, has determined in full and final resolution of the issues submitted for determination as follows:

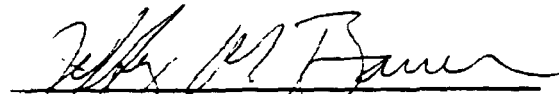
1. The claims by the Claimants Ralph & Anita Zicherman and Herman Zicherman be and hereby are dismissed in all respects.
2. The parties shall each bear their respective costs including attorney's fees.
3. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$500.00 filing fee previously deposited by the Claimants. In addition the Claimants Ralph & Anita Zicherman and Herman Zicherman be and hereby are liable jointly and severally and shall pay to the National Association of Securities Dealers Inc. the sum of \$500.00 to represent forum fees.

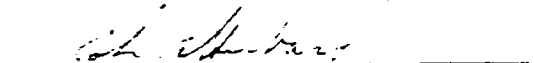


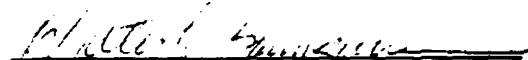
Arbitration

National Association of  
Securities Dealers, Inc.  
NASD Financial Center  
33 Whitehall Street  
New York, New York 10004

Arbitrator(s) Signature

  
Jeffrey M. Bauer, Esq.

  
John A. Hubbard, Esq.

  
Walter L. Baumgardner, Esq.

Dated: December 10, 1990