

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Hsue C. & Tam Tung

89-01585

Name of Respondent

Anton J. Gerdes, Jr.

REPRESENTATION

For Claimant: Warren C. White, Attorney at Law.

For Respondent: Jeffrey S. Rosen, Esq. of De Martino Finkelstein Rosen Virga
& Boraks.

CASE INFORMATION

Statement of Claim filed: May 31, 1989.

Claimant's Submission Agreement signed on: June 3, 1989.

Statement of Answer filed: April 25, 1991

Respondent's Submission Agreement signed on: March 21, 1991.

HEARING INFORMATION

Hearing Dates/Sessions: February 1, 1991 - One hearing session
June 13, 1991 - Two hearing sessions

Hearing Location: Washington, D.C.

CASE SUMMARY

Claimant alleged that Respondent made material misrepresentation to Claimant in order to induce the Claimant to invest his money with Respondent. Claimant alleged Respondent made fraudulent statements in order to persuade Claimant to invest in the initial offering of Channel America LPTV Holdings, Ltd. ("Channel America"). Claimant alleged that Respondent failed to consider Claimants investment goals and that Respondent simply made

misrepresentations to Claimant so that Claimant would invest in the companies suggested by Respondent and that Respondent and his employers would benefit by receiving commissions. Claimant alleged that Respondent would not let him sell Claimant's stock when Claimant placed a sell order with Respondent.

Respondent categorically denied each allegation asserted by Claimant and specifically maintained that Claimant purchased shares of Channel America through Respondent but that the trade was cancelled at no loss to the Claimant when the Claimant disavowed the trade. Respondent maintained that he handled Claimant's account properly and that Claimant had stated that he wanted to speculate in new issues. Respondent further maintained that Claimant's investment objectives were for speculative and high risk securities. Respondent stated that he made no misrepresentations to the Claimant and executed every order that Claimant placed. Respondent further maintained that Claimant's account resulted in a net gain to the Claimant.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$23,316.00, plus triple damages for the fraud involved, attorney's fees and costs.

Respondent requested that the statement of claim be dismissed and that he be awarded costs and reasonable attorney's fees.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award be entered. In either case, the parties have agreed to receive conformed copies of the Award while the original(s) remain on file with the NASD.

1. That Claimant's claim is denied in its entirety.
2. That all parties shall bear their costs, including attorneys' fees.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, forum fees are assessed to the Claimant in the amount of \$300, however, Claimant is entitled to offset this amount with his original filing fee of \$100 so that the amount due from the Claimant as forum fees is \$200.

Fees are payable to the National Association of Securities Dealers, Inc.

Concurring Arbitrator's Signature

Robert L. Dennis 7/13/91
Robert L. Dennis

Date of Decision: _____

Concurring Arbitrator's Signature


Alexander Heckman

Alexander Heckman, Esq.

Date of Decision: July 10, 1991

Page 3
Award 89-01585

Concurring Arbitrator's Signature


Edgar T. Bellinger, Esq.

Date of Decision: July 2, 1991