

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

National Association of
Securities Dealers, Inc.
Suite 1680
Three First National Plaza
Chicago, IL 60602
(312) 899-4440

In the Matter of the Arbitration Between

Name of Claimant(s)

Thomas Hunziker & Mary Eagan

89-02794

Name of Respondent(s)

Piper, Jaffray & Hopwood, Inc.
Ben Marks

CASE SUMMARY

This claim was initiated by a Statement of Claim filed with the National Association of Securities Dealers, Inc. ("NASD") on October 10, 1989. Claimants Thomas J. Hunziker and Mary L. Egan alleged that Respondents Piper, Jaffray & Hopwood, Inc. and Ben Marks failed to disclose that if Claimants contracted to sell short a certain number of stocks in a company and the stock split prior to closing out the transaction and buying back the shares, that the contract to sell would be unilaterally modified upward to reflect the split and Claimants would be liable for the additional shares.

In a Statement of Answer filed with the NASD on December 2, 1989, Respondents Piper, Jaffray & Hopwood, Inc. and Ben Marks denied the allegations of the Statement of Claim, stating that Respondent Marks informed Claimants of a 3:2 split of the subject stock when it occurred and that the split might affect their liability and increase their contract. Respondents also alleged that Marks had no reason to advise Claimants of the effects of a stock split when the investment was made as he was unaware of any stock split and that the losses incurred were the result of market forces. Respondents pled affirmatively that: 1) the Statement of Claim failed to state a claim upon which relief may be granted; 2) Claimants knew, understood, and assumed the risks inherent in the transaction; 3) Claimants' damages, if any, are the result of Claimants' own negligence or fault; and, 4) Claimants' damages, if any, were caused by market forces or third parties beyond the control of the Respondents.

RELIEF REQUESTED

Claimants requested entry of an award against Respondents in the amount of \$3,487.50, reflecting the profit of \$1,425.00 rather than the loss incurred of \$2,062.50.

Respondents requested that the Statement of Claim be dismissed with prejudice, and that they be awarded their costs, disbursements and reasonable attorneys' fees.

AWARD

As the arbitrator appointed to decide the matter in controversy between the parties as set forth in submissions to arbitration signed on July 28, 1989 by Claimants Thomas J. Hunziker and Mary L. Egan and on November 30, 1989 by Respondent Ben Marks, and by the required submission of Respondent Piper, Jaffray & Hopwood, Inc. pursuant to Section 12 of the NASD Code of Arbitration Procedure, I have considered the pleadings and additional submissions filed by the parties in this matter without a hearing pursuant to Section 13 of the NASD Code of Arbitration Procedure and have decided in full and final resolution of the issues submitted for determination as follows:

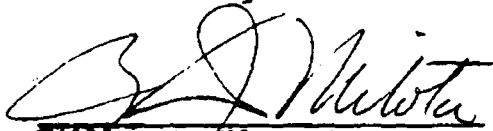
1. The Statement of Claim is dismissed and denied in its entirety; and,
2. Each party shall bear their own costs, including attorneys' fees, except for those specifically enumerated herein.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain as Forum Fees the \$25.00 filing fee initially deposited with the NASD by the Claimants Thomas J. Hunziker and Mary L. Egan.

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

Arbitrator Signature


William J. Milota, Esq.

Date of Decision: March 6, 1991