

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant(s)

Joseph Cohen

90-00377

Name of Respondent(s)

The Robinson-Humphrey Company, Inc.  
Richard Howard

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### CASE SUMMARY

Claimant Joseph Cohen alleged that Respondents The Robinson Humphrey Co., Inc. and Richard Howard placed him in unsuitable speculative securities recommended to him by Richard Howard that created losses in his account. Respondents maintained that the Claimant was a wealthy, sophisticated investor whose investment objectives were to invest in speculative securities. The Respondent further maintained that the Claimant was willing to assume all risks in these investments and failed to mitigate his damages when he became aware that the disputed securities' value decreased.

### RELIEF REQUESTED

Claimant requested damages in the amount of \$35,294.54 plus costs of the arbitration. Respondents requested that the claim of the Claimant be dismissed and requested that the costs of the arbitration be assessed against the Claimant.

### AWARD

On August 15, 1990 in Atlanta, Georgia, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by the Claimant Joseph Cohen on January 29, 1990, by Respondent The Robinson Humphrey Co., Inc. on March 29, 1990 and not signed by Respondent Richard Howard as required by Sections 12 and 25 of the Code of Arbitration Procedure. The initial claim was filed on February 5, 1990. The arbitration panel, 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) The claims of the Claimant be and hereby are dismissed in their entirety.
- (2) The parties shall each bear their respective costs, including attorneys fees.
- (3) Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall refund the \$400.00 filing fee previously deposited by the Claimant. Respondent Richard Howard is assessed \$1,200.00 in forum fees made payable to the NASD, Inc. as costs of the three hearing sessions conducted in this matter.

REPORT OF ARBITRATORS

Finding of Fact  
in the Arbitration  
Josephn Cohen vs. Robinson Humphrey and  
Richard Howard  
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The panel finds breach of duty of suitability by Richard Howard but no monetary damages resulting from that due to Claimant's duty to mitigate damages after disclosure of the investments was brought to his attention.

CONCURRING ARBITRATORS

/s/ \_\_\_\_\_  
Daniel E. Gulden

/s/ \_\_\_\_\_  
Emily Grigsby

/s/ \_\_\_\_\_  
Ann L. McKimmon

Dated August 22, 1990