

## NATIONAL ASSOCIATION OF SECURITIES DEALERS

National Association of  
Securities Dealers, Inc.  
One East Broward Boulevard  
Suite 1000  
Ft. Lauderdale, Florida 33301  
(305) 522-7391

In the Matter of the Arbitration Between )

Name of Claimant(s) )

Julie Hosbein )

Case No. 90-00704

Name of Respondent(s) )

Greentree Securities Corp. )

Gary Messinger )

J.F. Lowe &amp; Co., Inc. )

Heard before the arbitrator:

Craig Edward Stein, Esq.

## CASE SUMMARY

This claim was filed with the NASD, Inc. on March 8, 1990. The hearing was conducted in Fort Lauderdale, Florida on November 28, 1990 with a total of one session.

Claimant, Julie Hosbein ("Hosbein"), alleged that she was a student and unsophisticated investor; that J. F. Lowe & Co., Inc. ("Lowe") is the successor of Greentree Securities Corp. ("Greentree"); that Respondents, Gary Messinger ("Messinger") and Greentree, recommended the purchase of an unsuitable penny stock for Claimant; that Messinger pressured Claimant into buying the stock; that Respondents made material misrepresentations of fact and omitted to state material facts; and, that Respondents' actions constituted violations of Section 10(b) of the 1934 Exchange Act, and Rules of the Securities Exchange Commission, the National Association of Securities Dealers, Inc. and the New York Stock Exchange.

Respondent, Messinger, denied all allegations of wrongdoing and alleged that all risks were fully disclosed; and, that Claimant chose the stock from a variety offered to her.

Respondents, Lowe and Greentree, did not file Answers.

## RELIEF REQUESTED

Claimant requested damages in the amount of \$6,070.00, interest, attorney's fees and costs. Respondent Messinger requested dismissal.

## AWARD

On November 28, 1990, the arbitrator heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant on January 1990; by Respondent Messinger on May 7, 1990; and, not signed by Lowe or Greentree as required pursuant to Section 12(a) and 25 of the Code. The arbitrator, 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 parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the Award while the original remains on file with the NASD, Inc.
2. Respondents, Greentree, Messinger and Lowe, are found liable, jointly and severally, and shall pay the Claimant the amount of Six Thousand Seventy and 00/100 (\$6,070.00) Dollars plus interest at the legal rate of 12% per annum from September 1988 to the date of this award in the amount of One Thousand Five Hundred Seventy Eight and 20/100 (\$1,578.20) Dollars for a total due to Claimant of Seven Thousand Six Hundred Forty Eight and 20/100 (\$7,648.20) Dollars.
3. Respondents, Greentree, Messinger and Lowe, are further found liable, jointly and severally, and shall pay to the Claimant the amount of One Thousand Seven Hundred Fifty and 00/100 (\$1,750.00) Dollars for attorney's fees pursuant to Section 517.211, Florida Statutes, and expert witness fees in the amount of Two Hundred Fifty and 00/100 (\$250.00) Dollars.
4. Pursuant to Section 43 of the Code of Arbitration Procedure, Respondents, Greentree, Messinger and Lowe, are hereby assessed forum fees, jointly and severally, in the amount of \$200.00 of which \$125.00 shall be paid directly to the Claimant and \$75.00 shall be paid to the National Association of Securities Dealers, Inc. The NASD shall retain the filing fee previously deposited by the Claimant of which the Claimant shall recoup \$125.00 as set forth above.
5. The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding.

## OTHER ISSUES

The record evidence demonstrates that adequate service of the Claim was made and notice of the hearing given to Respondents Greentree and Lowe. Pursuant to Section 29 of the Code of Arbitration Procedure, the hearing was held and this Award is rendered as if Greentree and Lowe had entered their appearances.

## ARBITRATOR CONCURRING

/s/  
Craig Edward Stein, Esq.

Dated this 29th day of November 1990.