

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between)	
Marc W. Pevers)	
)	
Claimant)	
)	AWARD
vs.)	
)	NASD #90-01792
M.L. Stern & Co., Inc.)	
Gustavo Spoliansky)	
)	
Respondents)	

SUMMARY OF ISSUES

Claimant alleged that Respondents intentionally misrepresented the risks and suitability for his portfolio of an investment in senior notes of Southmark Corporation. Claimant also alleged Respondents breached their fiduciary duty to him.

Respondents denied all allegations, and asserted that Claimant made his decision to invest after reviewing all Southmark research materials held by M.L. Stern & Company. Furthermore, Respondents asserted that Claimant failed to heed a January 1989 recommendation to sell issued to all Stern customers holding the notes.

DAMAGES AND RELIEF REQUESTED

Claimant requested rescission of the transaction, general damages of \$102,000, interest, punitive damages, and attorneys' fees.

Respondents requested dismissal of all claims, and an award of costs of arbitration.

DAMAGES AND RELIEF AWARDED

This claim was filed with the NASD on June 25, 1990. On April 19, 1991, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant on June 13, 1990, by an authorized representative of M.L. Stern on August 28, 1990, and by Gustavo Spoliansky on August 24, 1990. The hearing was conducted in Los Angeles, California and lasted two (2) sessions. 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 as follows:

1. All claims brought by Claimant are dismissed.

2. The parties shall each bear their respective costs including attorneys' fees.
3. In accordance with Section 43 of the NASD Code of Arbitration Procedure (amended June 18, 1990), the NASD shall retain the \$900.00 in fees previously deposited by the Claimant.

OTHER ISSUES

None.

RRING

DATE SERVED: 5/9/91

Frank Milton Hodgson
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