

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between :
:
Jacques Mertens :
:
Claimant :
:
vs. :
:
Herzog, Heine, Geduld, Inc. :
:
Respondent :

CASE #90-02063
AWARD

CASE SUMMARY

Jacques Mertens, Pro Se, in a claim filed with the National Association of Securities Dealers, Inc. on July 26, 1990, alleged that Mutual Series Fund, Inc., Shawmut Bank of Boston and Herzog, Heine, Geduld, Inc. gave him varying and misleading information regarding the return of his checks, twice tendered to create an account in Mutual Beacon Fund. Claimant states that he later bought the Mutual Fund at a higher price than if the original order had been executed and maintained.

Respondent, Herzog, Heine, Geduld, Inc. by its attorney Charles Christofilis, New York, NY, maintained that they never had a contractual agreement with Claimant, had no dealings with Claimant and that there is a lack of privity between Claimant and Herzog, Heine, Geduld, Inc.

Claimant replied that Mutual Fund's Chairman of the Board and its President are employed by and paid by Herzog.

Originally named Respondents Mutual Series Fund, Inc. and Shawmut Bank of Boston are not members of the NASD, Inc. and have no agreement with Claimant to arbitrate. Therefore, they refused to submit to arbitration.

RELIEF REQUESTED

Claimant requests damages of Two Thousand Seven Hundred Fifty Dollars and No Cents (\$2,750.00).

Respondent requests dismissal of the Claim.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Harold Berman, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on September 26, 1990 and by the Respondent on November 14, 1990;

And, that the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. That the Claim of Jacques Mertens be, and hereby is, dismissed.
2. The One Hundred Twenty-Five Dollars and No Cents (\$125.00) filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc.

AFFIRMATION

I, HAROLD BERMAN, ESQ., do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.

Harold Berman
Signature of Arbitrator

DATED:

9/10/91