

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between :		
John H. Henkin & Ruth S. Henkin/ Char :		
Family Trust :		
Claimant	:	Award
vs.	:	Case #90-02307
Rauscher Pierce Refsnes, Inc. and :		
Larry R. Mitchell :		
Respondent	:	

CASE SUMMARY

John H. and Ruth S. Henkin on behalf of the Henkin Family Charitable Remainder Trust, in a claim filed with the National Association of Securities Dealers, Inc. on August 21, 1990, alleged that Respondent Larry R. Mitchell, their registered representative at Rauscher Pierce Refsnes, Inc., repeatedly failed to invest the proceeds from the sales of certain common stocks progressively, as the stocks were sold, into a Legacy Fund at American Trust Co., Hawaii, as he was instructed by Claimants. They affirm that this negligence resulted in 2,265 fewer shares being purchased due to price changes, than if the monies had been invested progressively as requested.

Respondents, in a joint Statement of Answer, filed by Sharon J. Shumway, Vice President, Director of Compliance, maintain that corporate trustee, American Trust, advised Larry Mitchell that it would be more appropriate to delay the purchase until all funds were available, rather invest the funds sequentially. Therefore, they state that if any party is responsible for the decision to delay the annuity purchase, it is American Trust or the Henkins' as Trustees.

RELIEF REQUESTED

Claimants requested Two Thousand Two Hundred Ten Dollars and Twenty Four-Seven One-Thousandths Cents (\$2,210.247) in damages.

Respondents request 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, James Kneeler, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on August 10, 1990 and by the Respondent Rauscher Pierce Refsnes, Inc., on March 12, 1991 but not by Larry R. Mitchell as required under Section 13(d) of the Code of Arbitration Procedure.

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 Respondents, Rauscher Pierce Refsnes, Inc. and Larry R. Mitchell, are jointly and severally liable and shall pay to Claimants John H. and Ruth S. Henkin, Trustees for the Henkin Family Charitable Remainder Trust, the sum of Two thousand dollars and No Cents (\$2,000.00)
2. The Fifty dollar (\$50.00) filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants is assessed, jointly and severally, against the Respondents and payable by the Respondents, Rauscher Pierce Refsnes, Inc. and Larry R. Mitchell, to the Claimants, John H. and Ruth S. Henkin, Trustees for the Henkin Family charitable Remainder Trust.

I, James Kneller, 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.

  
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Signature of Arbitrator

DATED: May 29th , 1991