

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimants

Lois and Douglas Maxwell

90-02531

Name of Respondents

Mesirow Capital Markets  
Mesirow Capital, Inc.

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REPRESENTATION OF PARTIES

Douglas I. Maxwell, Jr. appeared pro se.

Mesirow Capital Markets and Mesirow Capital, Inc. were represented by Thomas Sax, Esq., Arvey, Hodes, Costello & Burman, Chicago, IL.

CASE SUMMARY

In a statement of claim filed with the National Association of Securities Dealers, Inc. ("NASD") on or about August 19, 1991, Lois and Douglas Maxwell ("Claimants") alleged that Mesirow Capital Markets and Mesirow Capital, Inc. ("Respondents") failed to consummate in a reasonable and timely manner the redemption of HealthAmerica Corp. warrants.

In their Answer filed with the NASD on or about May 9, 1991, Respondents stated that the redemption request was timely communicated to Midwest Securities Trust. Respondents further stated that they had originally received unendorsed certificates from Midwest Securities Trust and upon receipt of properly endorsed certificates, the warrants were transmitted to The Trust Company of Atlanta for processing. Nine days after the receipt of the certificates by The Trust Company of Atlanta, HealthAmerica Corp. filed for bankruptcy.

RELIEF REQUESTED

Claimants requested an award in the amount of \$25,537.50.

Respondents requested that the Statement of Claim be dismissed and that they be awarded their costs and attorney's fees.

### PROCEDURAL MATTERS

On Thursday, September 26, 1991 in Nashville, Tennessee during a hearing lasting a total of one (1) session, the undersigned arbitrator heard the controversy between the parties as set forth in submissions to arbitration signed on November 9, 1990 by Claimants Lois and Douglas Maxwell.

The parties have agreed that a handwritten, signed Award may be entered. The parties have agreed to receive typed conformed copies of the award while the original remains on file with the NASD.

### AWARD

The arbitrator, having considered the pleadings, the testimony, and the evidence presented at the hearing, and the post hearing submissions of the parties, has decided in full and final resolution of the issues submitted for determination as follows:

1. The Statement of Claim shall be and hereby is dismissed and denied in its entirety;

2. Each party shall bear its own costs, expenses and attorney's fees, if any, incurred in this matter not specifically enumerated herein; and

3. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the non-refundable filing fee in the amount of \$100.00 and shall retain the hearing session deposit in the amount of \$300.00 previously deposited with the NASD by the Claimants.

Fees are payable to the National Association of Securities Dealers, Inc.

Dated:

September 26, 1991

Joe P. Lane  
Joe P. Lane, Esq.  
Presiding Chair  
Public Arbitrator