

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Robert J. Krzys

91-00060

Name of Respondents

Royce Park Investments, Inc.
Elwayne Hafen

REPRESENTATION

For Claimant Robert J. Krzys: Richard Insogna, Esq.

For Respondent Royce Park Investments, Inc. ("Royce Park"): no representative appeared for Royce Park at the hearing.

For Respondent Elwayne Hafen ("Hafen"): no representative appeared for Hafen as he was dismissed from this action prior to the hearing.

CASE INFORMATION

Statement of Claim filed: January 3, 1991.

Claimant's Submission Agreement signed on: November 28, 1990.

Respondent Royce Park Investments, Inc. did not file a Statement of Answer and execute a Submission Agreement as required pursuant to Section 25 of the Code of Arbitration Procedure.

Statement of Answer filed by Respondent, Elwayne Hafen on: November 22, 1991.

Respondent Hafen's Submission Agreement signed on: November 19, 1991.

HEARING INFORMATION

Hearing Date/Session: December 14, 1993 - One Session

Hearing Location: The hearing was held at the Marriott Hotel at 189 Wolf Road, Albany, New York 12205.

CASE SUMMARY

Claimant alleged that in April, 1989, Claimant opened an account with Respondent Royce Park Investments, Inc. and that subsequent to the opening of the account, Respondent Royce Park assigned Richard C. Harpole ("Harpole"), an account executive with Royce Park, to manage the account. Claimant further alleged that in November, 1989, Harpole recommended that the Claimant purchase shares of CompuSonics Video, as it was Harpole's belief that the value of this stock was about to rise dramatically and that Harpole further stated that since the price of the stock might be driven upward at any time, the Claimant needed to act immediately. Claimant also alleged that in reliance upon Harpole's representations, Claimant delivered the sum of \$15,000 to Harpole for the specific and exclusive purpose of purchasing 3,000,000 shares of CompuSonics Video at \$.005 per share for the Claimant.

Claimant alleged that in December, 1989, Harpole contacted the Claimant and advised the Claimant that the CompuSonics Video stock which Claimant had purchased at \$.005 per share had been sold at .015 per share, and that Claimant's funds would be forwarded to the Claimant as soon as the checks cleared but that from December 22, 1989, Respondent Royce Park had failed, neglected and refused to deliver or forward to Claimant the sum of \$45,000.00 which constituted a wrongful taking of Claimant's property.

As for a second cause of action, Claimant alleged that on April 4, May 17, and June 23, 1989, Claimant, upon the recommendations of Respondent Royce Park and Harpole, purchased 110,000 units of Golden Masters, Inc. at a total price of \$10,350.85; that from the date of the stock purchase through June, 1990, Respondent Royce Park repeatedly represented and warranted the fiscal solvency of Golden Masters, Inc. and its takeover by Priority One, Inc.; and that during October, 1989, Harpole disseminated a news release to Claimant which stated that the management of Priority One, Inc. had acquired control of Golden Masters, Inc. and that the management of Priority One, Inc. believed that it would be offering \$.25 per share for the purchase of owned stock in Golden Masters, Inc.

Claimant further alleged that on April 4, 1990, Respondent Royce Park determined to temporarily suspend its activities as a market maker in the units of Golden Masters, Inc. based on Royce Park's compliance officer's concerns about the viability of the information being represented to the stockholders of Golden Masters, Inc. and that Respondent Elwayne Hafen, Vice President of Royce Park, moved a number of his own clients out of the stock, as well as reducing his own

position therein. Claimant alleged that the management of Royce Park authorized and allowed representations of a takeover to be restated and failed to notify the brokers of the information and were permitted to continue trading the stock and making recommendations thereon and in doing so, there occurred by Respondents the commission of fraud, deceit, negligent misrepresentation, and breach of fiduciary duty.

Respondent Elwayne Hafen denied all allegations of wrongdoing asserted by Claimant and moved to dismiss all causes of actions as they related to him based upon Claimant's failure to state a valid claim against Respondent Hafen.

Respondent Hafen maintained that he had never spoken to and had never met the Claimant; that he never authorized anyone to make any representations to the Claimant regarding any securities and in particular, securities of Golden Masters, Inc.; that he never made any representations to the Claimant, directly or indirectly, and stated he had nothing to do with the Claimant's purchase of Golden Masters.

Respondent Hafen maintained that the only time he ever met Richard Harpole was in December, 1988, during a Christmas party given by the Rochester office of Royce Park and that he has never individually done business in the town of Pittsford, County of Monroe, State of New York; that Respondent Royce Park was owned by Royce Park Group, Inc. which is a Colorado corporation; and that Respondent Hafen owned 10% of the stock of Royce Group, Inc.

Respondent Hafen denied that he received any advice or recommendation expressing concern about Golden Masters, Inc. until approximately April, 1990, when Royce Park temporarily suspended its activities as a market maker in the securities of Golden Masters, Inc.

Respondent Royce Park Investments, Inc. did not file a Statement of Answer.

RELIEF REQUESTED

Claimant requested the following damages, jointly and severally, against Respondents: (a) \$45,000.00 in actual damages plus interest on the first cause of action; (b) \$10,350.85 in actual damages plus interest on the second cause of action.

Respondent Hafen requested that the Statement of Claim, at it related to him, be dismissed.

Respondent Royce Park Investments, Inc. did not submit a formal plea of relief.

OTHER ISSUES CONSIDERED & DECIDED

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 originals remain on file with the NASD.

Respondent Hafen moved to dismiss the Statement of Claim as it related to him on the grounds that as a matter of law and fact the Statement of Claim failed to state any claim against Respondent Hafen; that Respondent Hafen does not know, and had no involvement or participation in any transaction with the Claimant; that the claims are deficient as a matter of law; and that because respondent Hafen had no presence in New York or with any transaction in New York in which Claimant engaged, Respondent Hafen should not be compelled to submit to arbitration in New York.

After reviewing the submissions on the above motion, this panel granted the Motion to Dismiss, on the grounds that the Statement of Claim did not state a claim or specify damages against Respondent Hafen. Claimant was given 30 days leave to replead its claim against Respondent Hafen. By letter dated May 21, 1992, Claimant advised the NASD that he would not attempt to replead a cause of action against Respondent Hafen.

The arbitration panel made the following rulings with regard to Respondent Royce Park:

In accordance with Section 1 and 8 of the Code of Arbitration Procedure ("the Code"), the panel ruled that it had jurisdiction over Respondent Royce Park;

In accordance with Section 25 of the Code, Respondent Royce Park was served with the Statement of Claim and given an opportunity to respond which Respondent Royce Park failed to do;

In accordance with Section 21 and Section 26 of the Code, Respondent Royce Park was given due notice of the hearing procedure by regular and certified mail and failed to appear at the hearing;

In accordance with Section 29 of the Code, the panel ruled that Respondent Royce Park had adequate notice of this hearing and determined to proceed with Respondent Royce Park as a party in his absence.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:


1. Respondent Royce Park Investments, Inc. is hereby liable and shall pay to Claimant the sum of \$45,000.00.
2. Respondent Royce Park Investments, Inc. is hereby liable and shall pay to Claimant the sum of \$10,350.85.

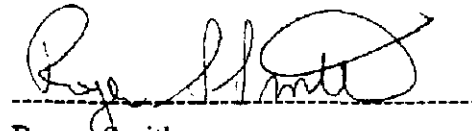
FORUM FEES

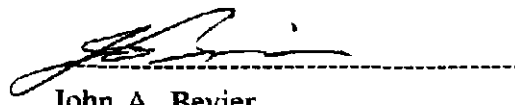
Pursuant to Section 43c of the Code of Arbitration Procedure, the arbitrators have determined that the NASD shall retain the \$150.00 non-refundable filing fee previously paid by Claimant and the \$500.00 hearing session deposit.

Arbitrators' Signatures

Name


James B. Tuttle, Esq.
Chairperson- Public Arbitrator


Roger Smith
Public Arbitrator


John A. Bevier
Industry Arbitrator

Date of Decision: April 19, 1994

STATE OF New York

COUNTY OF Albany

On this 25th day of February, 1994, before me personally appeared James R. Tuttle known to me to be the individual described in and who executed the foregoing instrument and duly acknowledged to me that he/she executed the same.

Colleen B. O'Connell

COLLEEN B. O'CONNELL
Notary Public, State of New York
Qualified in Westchester County
No. 4912115
Commission Expires Nov. 9, 1995

STATE OF New York

COUNTY OF WESTCHESTER

On this 15th day of April, 1994, before me personally appeared Roger S. Smith known to me to be the individual described in and who executed the foregoing instrument and duly acknowledged to me that he/she executed the same.

Brendan P. Grady

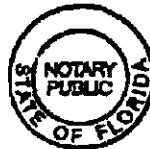
BRENDAN P. GRADY
Notary Public, State of New York
No. 4993057
Qualified in Westchester County
Commission Expires March 9, 1996

STATE OF FLORIDA

COUNTY OF LEE

On this 28th day of MARCH, 1994, before me personally appeared [Signature] known to me to be the individual described in and who executed the foregoing instrument and duly acknowledged to me that he/she executed the same.

Mary Mahar



MARY MAHAR
My Comm. Exp. 4-25-94
Bonded Thru Service Ins. Co.