

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

James and Staci Darragh

vs

91-00371

Name of RespondentsKirlin Securities
Christopher Callagy
Joseph Hann

REPRESENTATION

For Claimant: Claimants represented themselves.

For Respondent: Kirlin Securities was represented by Anthony Kirincic,
President.

Christopher Callagy represented himself.

Joseph Hann represented himself.

CASE INFORMATION

Statement of Claim filed: February 05, 1991.

Claimant's Submission Agreement signed on: January 31, 1991.

Statement of Answer filed by Respondent, Kirlin Securities, on: March 18,
1991.

Respondent, Kirlin Securities, Submission Agreement signed on: March 15, 1991

Statement of Answer filed by Respondent, Christopher Callagy, on March 22,
1991.Respondent, Christopher Callagy, Submission Agreement signed on March 15,
1991.

Statement of Answer filed by Respondent, Joseph Hann, on: June 27, 1991.

Respondent, Joseph Hann, Submission Agreement signed on: March 19, 1991.

HEARING INFORMATION

Hearing Date: June 27, 1991.

Sessions: Two hearing sessions.

Hearing Location: New York, New York.

CASE SUMMARY

Claimants allege that Respondent, Joseph Henn, solicited the purchase of penny stocks and warrants that were inconsistent with their investment objectives of conservative investments like Government Bonds and "Blue Chip" stocks. Claimants allege that Henn recommended that they purchase Maxoil and represented Maxoil to be a Blue Chip company. As a result, Claimants allege that they purchased a total of 4750 units of Maxoil and later bought 3000 shares of First Priority Group. Claimants also allege that when Respondent, Christopher Callagy, took over their account they re-stated their investment objectives to Callagy and Callagy advised him to purchase 15,000 more shares of Maxoil and 400 shares of Noven Pharmaceuticals. Claimants further allege that Respondents failed to properly explain the bid/ask prices of the stocks.

Respondents deny the allegations and deny liability. They contend that the trades which occurred in the Claimants' account were consistent with their investment objectives which was growth and speculation. Respondents allege that Claimants rejected investment opportunities that were conservative in nature.

RELIEF REQUESTED

Claimants request that the arbitrator award them \$12,249.40 in damages against Respondent, Kirlin Securities, and they will return the stock certificates to said Respondent.

Respondents request that the claims be denied.

AWARD

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

1. Respondent, Kirlin Securities, is hereby liable to the Claimants and shall pay them Five Thousand Four Hundred and Forty Four Dollars and Fifty Five Cents (\$5,444.55) and rescind the following trades: (a) 750 Maxoil purchased on June 30, 1989; (b) 3,000 First Priority Group purchased on August 22, 1989; and (c) the 4,000 Maxoil purchased on August 31, 1989;

2. The trades referenced above shall be rescinded and shall occur in the following fashion: (1) Claimants shall deliver to Respondent, Kirlin Securities the securities referred to above in negotiable form with stock powers attached; and (2) Respondent shall deliver to Claimants its good check in the sum of \$5,444.55;

3. The claims asserted against Respondents, Christopher Callagy and Joseph Henn, are denied.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following forum fees are assessed.

1. The NASD has received \$100.00 non-refundable fee and \$300.00 hearing session deposit from the Claimants;
2. Forum fees for two hearing sessions at \$300.00 per session for a total of \$600.00 shall be assessed;
3. Forum fees are assessed against Respondent, Kirlin Securities. Kirlin Securities shall satisfy this assessment by reimbursing Claimant \$300.00 and remitting a check to the NASD for \$300.00;

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

ARBITRATION PANEL

Michael J. Shelley, Esq.

Michael J. Shelley

Sole Public Arbitrator

Michael J. Shelley

Arbitrator's Signature

Michael J. Shelley
Michael J. Shelley, Esq.

Date of Decision: July 8, 1991

DATED BY NASD
JULY 10, 1991