

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

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In the Matter of the Arbitration Between :

Dr. Harvey Workman & Rosalind Workman :

Claimant :

vs. :

Barry Murphy & Company, Inc. :

Respondent :

vs. :

Broadcort Capital Corporation :

Respondent :  
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CASE #91-00638  
AWARD

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on February 27, 1991, Claimants, Dr. Harvey Workman & Rosalind Workman, who appeared Pro Se, alleged that Respondent Barry Murphy & Company, Inc. failed to notify Claimants that their 1,000 Class A warrants of Marrow-Tech, Inc. were redeemable on December 27, 1989. Claimants asserted that they did not exercise the 1,000 Class A warrants before the redemption date due to the lack of notification by Respondent, thus causing a loss to them.

Respondent, Barry Murphy & Company, Inc. by and through Barry W. Murphy, maintained that they were advised by their clearing agent, Broadcort Capital Corporation, that notification of the Marrow-Tech redemption was sent to all customers on November 15, 1989 and on November 21, 1989. Respondent, Barry Murphy & Company, Inc. asserted a Third-Party Claim against the clearing agent, Broadcort Capital Corporation. Respondent contended that the responsibility of notification for such a redemption is that of the clearing agent, Third-Party Respondent, Broadcort Capital Corporation.

Third-Party Respondent, Broadcort Capital Corporation maintained that they were the clearing agent for Third-Party Claimant Barry Murphy & Company, Inc. during the time of the dispute. Third-Party Respondent acknowledged that they sent notifications of the Marrow-Tech, Inc. redemption to all customers. Third-Party Respondent further contended that they also notified

all firms by wire of the redemption and that such firms are liable to their own customers.

RELIEF REQUESTED

Claimants, Dr. Harvey Workman & Rosalind Workman, requested \$2,500.00 in actual damages.

Respondent, Barry Murphy & Company, Inc. requested the claim be dismissed. Third-Party Claimant, Barry Murphy & Company, Inc. requested indemnification against Third-Party Respondent, Broadcast Capital Corporation.

Third-Party Respondent, Broadcast Capital Corporation requested indemnification against Respondent, Barry Murphy & Company, Inc.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Susan C. Lushing, 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 February 23, 1991, by the Respondent Barry Murphy & Company, Inc. on June 3, 1991 and not by Third-Party Respondent, Broadcast Capital Corporation, as required by Sections 12 & 13 of the NASD Code of Arbitration Procedure.

And, 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. The Claims of Claimants, Dr. Harvey Workman & Rosalind Workman against Respondent, Barry Murphy & Company, Inc. are dismissed.
2. The Third-Party Claim of Third-Party Claimant, Barry Murphy & Company, Inc. against Third-Party Respondent, Broadcast Capital Corporation is dismissed.
3. The Claim of Third-Party Respondent, Broadcast Capital Corporation against Respondent, Barry Murphy & Company, Inc. is dismissed.
4. The parties shall bear their respective costs.

5. The \$625.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Parties shall be retained by the NASD, Inc. The Respondent, Barry Murphy & Company, Inc. shall pay to the NASD, Inc. the sum of \$375.00 representing the outstanding balance of their filing fee.

AFFIRMATION

I, SUSAN C. LUSHING, 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.

Susan C. Lushing  
Signature of Arbitrator

DATE OF DECISION: January 23, 1992

STATE OF: New York

SS:

COUNTY OF: Kings

On this 21<sup>st</sup> day of January 19 92, before me personally appeared Susan C. Lushing, Esq. to me known and known before me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

JULIA M. WEISS  
Notary Public, State of New York  
No. 31-403958  
Qualified in New York County  
Commission Expires May 8, 1992

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Julia M. Weiss