

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between :
Barry S. Birkenholz :
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 :
 : Claimant :
 : CASE #91-00681
vs. : AWARD
 :
 :
Charles Colchamiro :
Ladenburg, Thalmann & Co., Inc. :
 :
 : Respondents :

CASE SUMMARY

Barry S. Birkenholz, in a claim filed with the National Association of Securities Dealers, Inc. on March 4, 1991, alleged that Respondents failed to properly research the credibility of ZZZZ Best Co. before recommending its stock. He states that he believes a brokerage house should only sell stock in companies that are highly regarded.

Respondents, Charles Colchamiro and Ladenburg, Thalmann & Co., Inc. represented by their counsel, Norman S. Lawi, Esq., maintained in a joint Statement of Answer that they performed the necessary due diligence in investigating and researching the business and operations of ZZZZ Best and were not negligent in their duties. They state that they were innocently duped and fraudulently persuaded by ZZZZ Best and its management and that they have no legal duty or obligation to guarantee recommendations to customers where such due diligence was performed.

RELIEF REQUESTED

Claimant requests damages of Six Thousand Eight Hundred Ninety-One Dollars and Twenty-Five Cents (\$6,891.25).

Respondents demand dismissal of the Claim in its entirety with costs of this proceeding assessed against the Claimant.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single

Public Arbitrator, Mark E. Feierstein, 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 26, 1991 and by the Respondents on April 3, 1991 and April 3, 1991, respectively;

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, Charles Colchamiro and Ladenburg, Thalmann & Co., Inc., are jointly and severally liable and shall pay the sum of One Thousand Two Hundred Seventy-Five Dollars and No Cents (\$1,275.00) to the Claimant Barry S. Birkenholz.
2. The parties shall bear their respective costs including attorney's fees.
3. The One Hundred Fifty Dollars and No Cents (\$150.00) filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc.

AFFIRMATION

I, MARK E. FEIERSTEIN, 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.



Signature of Arbitrator

DATED:

7/26/91