

## N.A.S.D. AWARD

National Association of  
Securities Dealers, Inc.  
NASD Financial Center  
33 Whitehall Street  
New York, New York 10004

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration BetweenName of Claimant

James D. Kurfess

91-01382

Name of Respondents

Johnston, Lemon &amp; Co. Inc.

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REPRESENTATION

For Claimant: Claimant appeared pro se.

For Respondent: Respondent was represented by Douglas K. Spaulding, Esq.  
of the law firm of Reed Smith Shaw and McClay.CASE INFORMATION

Statement of Claim filed: May 2, 1991.

Claimant's Submission Agreement signed on: April 23, 1991.

Statement of Answer filed by Respondent Johnston, Lemon & Co., Inc. on:  
June 19, 1991.Respondent Johnston, Lemon & Co., Inc.'s. Submission Agreement signed on: May  
15, 1991.HEARING INFORMATION

Hearing Dates/Sessions: October 18, 1991, 1 session

Hearing Location: The hearing was conducted at the offices of the National  
Association of Securities Dealers, Inc. located in  
Washington, DC.CASE SUMMARYClaimant alleged that his account failed to have any diversification,  
Respondent failed to notify him when they ceased being a market maker in

Medical Sterilization, Inc. (MSTI) and failed to properly monitor his account.

Respondent maintained any losses or damages suffered by the Claimant resulted from his own actions or inaction or his failure to mitigate damages or from market price changes for which Respondent is not responsible. Respondent Johnston, Lemon & Co., Inc. further denied the allegations of Claimants Statement of Claim.

RELIEF REQUESTED

Claimant requested damages of \$8,662.50.

Respondents requested dismissal of claim.

AWARD

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

1. The Claimant's claim be and hereby is dismissed in all respects.
2. The Respondent's Motion to Dismiss based on the Statute of Limitations be and hereby is denied in all respects.
3. The parties shall each bear their respective cost, including attorneys' fees.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed.

The Respondent Johnston, Lemon & Co., Inc. be and hereby is liable and shall pay to the Claimant the sum of \$275.00 to reimburse him for the filing fee paid.

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

ARBITRATOR SIGNATURE

  
Stephen E. Crable, Esq.  
Public Arbitrator

Date of Decision:

October 31, 1991