

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration BetweenName of Claimants

Martin Kaiden and Ruth Kaiden, JTWROS

91-02041

Name of Respondent

G K Scott & Co. Inc

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on July 1, 1991, Claimants Martin R. and Ruth A. Kaiden, who appeared Pro Se, alleged that they were repeatedly solicited by a broker working for Respondent G.K. Scott & Co., Inc. to purchase stock in Topologix, Inc., in which Respondent was a market maker. Claimants further alleged that they were informed that Respondent was very close to the management at Topologix, Inc. whereby Topologix, Inc. had a unique and cost-effective product, at which time, on December 5, 1988, Claimants purchased 2,000 shares of Topologix, Inc. for \$5,130.00. Claimants contended that when the stock began to drop, Respondents' broker advised them to purchase more shares because the company had a number of important announcements that would certainly drive the price upward. Claimants further contended that every time they wanted to sell their shares of Topologix, they were told a new story, all designed to persuade Claimants to purchase additional shares, and finally on December 19, 1989 Claimants sold their shares for \$98.12. Claimants asserted that the price they were sold shares was an arbitrary and fraudulent price, caused by the manipulation of the stock by Respondent and other co-conspirators.

Claimants further asserted a Motion to Bar Respondent's Statement of Answer pursuant to Section 25(b)(2)(ii), since they filed their Answer after the required time.

Respondent G.K. Scott & Co., Inc., by and through their in-house counsel, George Kevorkian, Esq., maintained that on December 5, 1988 Claimants Martin R. and Ruth A. Kaiden purchased 2,000 shares of Topologix for \$5,130.00 and were provided all available information pertaining to the company in order that they would be able to make an informed investment decision. Respondent further maintained that Claimants were not fraudulently induced not to sell their shares and in fact could have ordered the shares sold at any time.

Respondent replied to Claimants' Motion to Bar and contended that the NASD has permitted them to withdraw from membership and are no longer an active company, therefore, they are doing their best to answer all complaints on a timely basis.

RELIEF REQUESTED

Claimants Martin R. and Ruth A. Kaiden requested \$5,030.00 in actual damages plus costs.

Respondent G.K. Scott & Co., Inc. requested the claim be denied in it's entirety and they be awarded costs.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Eugene J. McCabe, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on July 27, 1991 and by the Respondent on November 10, 1992.

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. Respondent G.K. Scott & Co., Inc. is liable and shall pay to the Claimants Martin R. and Ruth A. Kaiden the sum of \$3,355.00 in damages.
2. The parties shall bear their respective costs.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants Martin R. and Ruth A. Kaiden shall be retained by the NASD, Inc. Respondent G.K. Scott & Co., Inc. is liable and shall pay to the Claimants the sum of \$150.00 as reimbursement.

AFFIRMATION

I, **EUGENE J. McCABE, 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

DATE OF DECISION: March 6, 1993

STATE OF:

New Jersey

SS:

COUNTY OF:

Monmouth

On this _____ day of _____, 19____, before me personally appeared **Eugene J. McCabe, 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.



ANNA GOELIN
Notary Public of New Jersey
My Commission Expires July 19, 1994