

PUBLIC

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimants

Donald & Jeanette Dale

vs.

91-03002

Name of Respondents

H.K. Freeland & Co., Inc.  
Keith R. Lipscomb

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CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on September 26, 1991, Claimants Donald and Jeanette Dale, who appeared Pro Se, alleged that Respondent H.K. Freeland & Co., Inc., through its broker, Respondent Keith R. Lipscomb, misled them into purchasing 2,000 shares of U.S. Environmental Inc. stock, and that although they were assured that this stock would soon be listed on the New York Stock Exchange and increase in value, it declined to the point where it is nearly worthless. The Claimants contended that they were misinformed by the Respondents, and that they should be reimbursed for their loss.

Respondent H.K. Freeland & Co., Inc. did not submit a Statement of Answer, however through its court appointed Receiver in SEC v. H.K. Freeland & Co., Inc. and John Freeland, 91 Civ 7986 (CSH), pending before the Honorable Charles S. Haight, Jr., in the U.S. District Court for the Southern District of New York, stated that a disgorgement fund will be created for defrauded investors in the stock of U.S. Environmental, and that the Claimants may want to avail themselves of the remedy provided in the SEC enforcement action.

Respondent Keith R. Lipscomb, who appeared Pro Se, maintained that he emphatically denies that he misled the Claimants, and that he disclosed the high degree of risk involved in the stock, encouraged the Claimants to weigh the risks and potential returns, and mailed to the Claimants a complete financial outline that covered their objectives and suitability of this investment. The Respondent further maintained that he was very thorough in his responsibilities to the Claimants, and that the information regarding this investment that he supplied to the Claimants was obtained directly from John Freeland, and he has no way of knowing if any false information was given to him about the stock.

**RELIEF REQUESTED**

Claimants Donald W. & Jeanette A. Dale requested \$4,515.00 in actual damages.

Respondent Keith R. Lipscomb requested the claims of the Claimants be dismissed.

Respondent H.K. Freeland & Co., Inc. did not file a Statement of Answer to the Statement of Claim.

**AWARD**

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Michael D. Donohue, 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 September 27, 1991, by the Respondent Keith R. Lipscomb on February 21, 1992, but not signed by Respondent H.K. Freeland & Co., Inc. 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. Respondents H.K. Freeland & Co., Inc. and Keith R. Lipscomb are jointly and severally liable and shall pay to the Claimants Donald W. and Jeanette A. Dale \$4,515.00 in actual damages.
2. The parties shall bear their respective costs.
3. The \$125.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants shall be retained by the NASD, Inc.

AFFIRMATION

I, **MICHAEL D. DONOHUE, 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.

Michael Donohue

DATE OF DECISION: January 5, 1993