

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Silvestros D. Silvestros

92-00436

Name of Respondents

Ira M. Zadikow  
South Richmond Securities Inc.

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REPRESENTATION

For Claimant: Daniel F. Webb, Esq., Chicago, Illinois.

For Respondent South Richmond Securities, Inc.: Cirino M. Bruno, Esq. of  
Gusrae, Kaplan & Bruno, New York, New York.

Respondent Ira M. Zadikow appear pro se.

CASE INFORMATION

Statement of Claim filed: October 25, 1991.

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

Statement of Answer filed by Respondent, South Richmond Securities, Inc. on:  
May 8, 1992.

Respondent South Richmond Securities, Inc.'s Submission Agreement signed on:  
May 6, 1992.

Respondent Ira M. Zadikow's Submission Agreement signed on: May 1, 1992.

HEARING INFORMATION

Pre-Hearing Conference date : September 24, 1992. One (1) session.

Hearing Date: September 28, 1992. Two (2) sessions.

Hearing Location: Chicago, Illinois.

#### CASE SUMMARY

Claimant Silvestros D. Silvestros ("Claimant") alleged that Respondent Ira M. Zadikow ("Zadikow"), a Registered Representative of Respondent South Richmond Securities, Inc. ("SRI"), during a period from October 1988 to March of 1989, refused to sell 5,000 shares of Laven America, Inc. and issue the certificate so that Claimant could sell it elsewhere. Claimant further alleged that despite repeated requests to sell or to issue the certificates, Zadikow refused. Lastly, Claimant alleged that as of September of 1991, there was no market for the stock, and that it was valueless.

For its Statement of Answer, Respondent SRSI denied each and every allegation contained in the Statement of Claim. In addition, SRSI asserted the following affirmative defenses:

1. Claimant's claim failed to state a cause of action upon which relief may be granted.
2. Claimant's claims, if any, are timed barred by the applicable statutes of limitations.
3. Claimant's claim is time barred by the equitable doctrine of laches.
4. Claimant's claim is barred by the equitable doctrine of estoppel.
5. Claimant has by his inaction waived his right to bring this claim.

For its Statement of Answer, Zadikow denied each and every allegation contained in the Statement of Claim. Zadikow also alleged that Claimant was a sophisticated investor. Zadikow also alleged that Claimant had never made any complaints, actions, letters or calls during the time in question.

#### RELIEF REQUESTED

Claimant requested an award of \$15,120.00.

Respondent SRSI requested that the Claimant's claim be dismissed in its entirety, and that SRSI be awarded costs, disbursements and reasonable attorneys' fees in connection with the defense of this claim.

Respondent Zadikow requested that the Statement of Claim be dismissed.

#### OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the Award while the original remain on file with the NASD.

Prior to the hearing on September 28, 1992, Arbitrator Thomas S. Wilson notified the NASD that he would be unable to attend due to the flu. After informing the parties of this fact, the parties have accepted, for the record, that the hearing would proceed with Daniel Uhrig and Champ Davis sitting as the panel for this arbitration.

#### AWARD

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

1. Respondents, South Richmond Securities, Inc. and Ira M. Zadikow are jointly and severally liable for, and shall pay to Claimant, Silvestros D. Silvestros the sum of \$9,625.00 as satisfaction for his claims herein.

2. Each party shall pay their own attorneys' fees and costs associated with this arbitration.

3. Respondents, South Richmond Securities, Inc. and Ira M. Zadikow are jointly and severally liable for, and shall pay one-half of the hearing session fees, and Claimant, Silvestros D. Silvestros is liable for and shall pay one-half of the hearing session fees for this arbitration, as set forth more fully below.

#### FORUM FEES

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

1 pre-hearing conference session X \$300.00 = \$300.00

2 hearing sessions x \$400.00 = \$800.00

Pursuant to Section 43(c) of the Code of Arbitration, the NASD shall retain the nonrefundable filing fee in the amount of \$100.00 and shall retain the hearing session deposit in the amount of \$400.00 previously paid to the NASD by the Claimant.

Additional forum fees in the amount of \$150.00 are assessed against Claimant.

Additional forum fees in the amount of \$550.00 are assessed jointly and

severally against the Respondents.

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

CONCURRING ARBITRATORS

Dated:

October 2, 1992

/s/Daniel J. Uhrig  
Daniel J. Uhrig  
Presiding Chair  
Public Arbitrator

October 2, 1992

/s/Champ W. Davis, Jr.  
Champ W. Davis, Jr.  
Public Arbitrator

Date of Service by the NASD:

Oct 5, 1992