

PUBLIC

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Abram Speiser Trust
Bernice Speiser Co-Trustee

92-03094

Name of Respondents

Addison Financial Services Inc.
First Montauk Securities Corporation
Eric Finkel
Robert Baran

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on September 15, 1992, Claimant Abram Speiser, Trust, Bernice Speiser, Co-Trustee, who appeared Pro Se, alleged that Respondents Eric Finkel and Robert Baran, while employed by Respondent First Montauk Securities Corporation and later Addison Financial Services, Inc., made unsuitable purchases in the Claimant's account which consisted mostly of "penny stock", such as Bancus Richmond, Transformedics and Leasing Technology, among others. The Claimant further alleged that the Respondents paid no attention to his obvious failing health and continued to use hard sell tactics without regard to the inappropriateness or suitability of these highly speculative investments. The Claimant contended that the wrongdoings of these Respondents have caused losses to the Claimant for which they should be held liable.

Respondent First Montauk Securities Corporation, through it's in-house counsel, Robert I. Rabinowitz, Esq., maintained that the Claimant held an account with this firm from October of 1990 to April of 1991, and that during the brief life of the account there is no indication that the account was handled in any method other than that which was approved by the Claimant. The Respondent further maintained that the account was handled appropriately with no concern or complaint voiced by the Claimant and that the limited activity conducted in the account was approved by the Claimant.

Respondent Addison Financial Services, Inc., through its in-house representative, W.A. Maddox, III, maintained that the Claimant's account, when it went to the firm, had a history of trading in low priced securities. The activity exhibited while at Addison Financial Services, Inc. was not inconsistent with the account's interest as conveyed to the broker. The Respondent also maintained that while the account was there, it entered into three securities transactions, none of which fell within the frame work of "penny stocks", and all were approved by the Claimant prior to the trades taking place. The Respondent contended that it does not have any liability in reparations to this trust, and that it has done all in its power to fulfill the wishes of the account with the knowledge it had on hand. The Respondent further contended that it acted at all times in the interest of the Claimant, following a course of legal and regulatory compliance, ethical behavior and common sense.

Respondent Eric Finkel, who appeared Pro Se, maintained that he acted in a very reasonable manner at all times concerning Mr. Speiser's account, and that he did not know of his illness, since Mr. Speiser acted in a very prudent manner when dealing with him. The Respondent contended that he should not be held liable for any of the losses incurred by the trust, since Mr. Speiser carefully considered each investment, seeing to it that he could afford to take on the risk.

Respondent Robert J. Baran, who appeared Pro Se, maintained that the fact that he kept his "safe money" at another firm, that he was willing to invest, and that he never indicated suitability, nor seemed to have any memory loss or any dysfunction, shows that he was acting on behalf of the Claimant's objectives. The Respondent contended that the accusations of "hard sell" tactics are an unproven attempt to defame his name and reputation. Respondent Robert Baran filed a Counterclaim in which he requested damages and reimbursement of all the expenses he has incurred.

In a response to the answer filed by the Respondents, the Claimant refuted the defenses used by the Respondents and again requested damages be awarded, because of wrongful acts committed by the Respondents.

RELIEF REQUESTED

Claimant Abram Speiser, Trust, Bernice Speiser, Co-Trustee requested \$10,000.00 in actual damages, plus interest.

Respondent Addison Financial Services, Inc. requested the claims of the Claimant be dismissed.

Respondent First Montauk Securities Corp. requested the claims of the Claimant be dismissed.

Respondent Eric Finkel requested the claims of the Claimant be dismissed.

Respondent Robert J. Baran requested the claims of the Claimant be dismissed, and that he be awarded \$10,000.00, plus expenses.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Stephen K. Halpert, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on September 21, 1992, by Respondent Robert J. Baran on October 26, 1992, by Respondent Eric Finkel on October 26, 1992, by Respondent First Montauk Securities Corp. on October 30, 1992 and by Respondent Addison Financial Services, Inc. on October 14, 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:

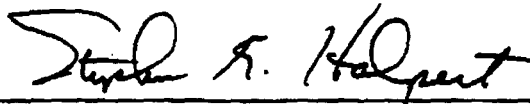
1. Respondents First Montauk Securities Corp., Eric Finkel and Robert Baran are jointly and severally liable and shall pay to Claimant Abram Speiser, Trust, Bernice Speiser, Co-Trustee, \$7,056.89 in actual damages, inclusive of interest.
2. Respondents Addison Financial Services, Robert J. Baran and Eric Finkel are jointly and severally liable and shall pay to Claimant Abram Speiser, Trust, Bernice Speiser, Co-Trustee \$1,974.85 in actual damages, inclusive of interest.
3. Respondents Eric Finkel and Robert J. Baran are jointly and severally liable and shall pay to Claimant Abram Speiser, Trust, Bernice Speiser, Co-Trustee, \$968.26 in actual damages, inclusive of interest.
4. The Counterclaim of Robert J. Baran against the Claimant is denied.
5. The parties shall bear their respective costs.
6. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc. Respondents Addison Financial

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Services, Inc., First Montauk Securities Corp., Eric Finkel and Robert J. Baran are jointly and severally liable and shall pay \$150.00 to the Claimant as reimbursement of the fee.

AFFIRMATION

I, **STEPHEN K. HALPERT**, 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.

A handwritten signature in dark ink, reading "Stephen K. Halpert", is written over a horizontal line.

Signature of Arbitrator

DATE OF DECISION: April 27, 1993