

PUBLIC

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Edward T. Kleinman

92-03315

Name of Respondents

F.N. Wolf & Co., Inc.  
Mark Sottile

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CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on October 1, 1992, Claimant Edward T. Kleinman who appeared Pro Se, alleged that he and Dr. Mark Hegetschweiler lost \$12,00.00 each due to the misguidance of Respondent Mark Sottile, broker at Respondent F.N. Wolf & Co., Inc. Claimant further alleged that Respondent Mark Sottile approached Claimant and explained to him that Claimant could make some money if he had faith and trust in Respondent Mark Sottile whereby over a period of 1 1/2 years Respondent Mark Sottile was sending stock information to Claimant. Claimant contended that in September, 1991 Respondent Mark Sottile called him with a stock called Site Base Media, whereby, Dr. Hegetschweiler and Claimant purchased these stocks and were somewhat happy with the results. Claimant further contended that Respondent Mark Sottile turned him in the direction of DPIC, whereby Claimant purchased this stock and over a period 3-4 months the stock went from \$4.50 to \$5.50, did a stock reversal 5 to 2 so the stock could go on the National One the counter market. Claimant asserted that the stock reached \$13.25, Site Base Media was \$6.75, whereby he was told to buy more stock which he did and the stocks remained the same. Claimant further asserted that he wanted to sell the stock as he needed the money but Respondent Mark Sottile advised Claimant to "just wait - the big profits are yet to come", whereby, the stocks fell and Respondent Mark Sottile convinced Claimant to keep the stock. Claimant argued that Respondent Mark Sottile made him promises that didn't happen and Respondent Mark Sottile lied to Claimant and Respondents F.N. Wolf & Co., Inc. and Mark Sottile's inappropriate handling of his account, caused him to sustain losses.

Respondents, F.N. Wolf & Co., Inc. and Mark Sottile by and through their counsel James Cosby, Esq. of Maloney, Yeatts & Barr, Richmond, VA, maintained that the allegations

Claimant Edward T. Kleinman made in this matter are repetitive of the same allegations he made to the NASD and SEC, and after investigations, both the NASD and SEC found no finding of fault on Respondents' side. Respondents further maintained that any losses incurred by Claimant were the result of his own informed trading decision in connection with normal market forces. Respondents contended that Respondent Mark Sottile, with respect to each investment, explained fully the nature of the investment, the opportunity it offered, the risk attendant to each investment; all in accordance with proper standards and practices within the industry. Respondents further contended that based on the Claimant's income objectives and experience, their recommendations were consistent with Claimant's objective and Claimant was fully capable of making any decision with regard to each investment whereby for each recommendation Respondent Mark Sottile had a proper basis based on all relevant facts. Respondents F.N. Wolf & Co., Inc. and Mark Sottile further requested a fully and proper hearing on this matter.

#### **RELIEF REQUESTED**

Claimant Edward T. Kleinman requested \$10,000.00 in actual damages.

Respondents F.N. Wolf & Co., Inc. and Mark Sottile requested the claim be denied.

#### **AWARD**

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Andrew Ekonomou, Esq., 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 24, 1992, by the Respondent F.N. Wolf & Co., Inc. on January 27, 1993 and by the Respondent Mark Sottile on January 26, 1993.

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' request for a Hearing is denied.
2. The claims of Claimant Edward T. Kleinman against Respondents F.N. Wolf & Co., Inc. and Mark Sottile are dismissed.
3. The parties shall bear their respective costs.
4. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Edward T. Kleinman shall be retained by the NASD.

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**AFFIRMATION**

I, Andrew Ekonomou, 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: 24 May 1993

NASD DATE OF DECISION: May 28, 1993