

N A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

John Mazur

92-04328

Name of Respondent

David A. Noyes & Company

REPRESENTATION

For Claimant at the hearing: Mark S. Boyle, Esq., Chicago, Illinois.

For Respondent at the hearing: Thomas P. Ward, Esq. of McBride Baker & Coles, Chicago, Illinois.

CASE INFORMATION

Statement of Claim filed: December 24, 1992. Claimant's Submission Agreement signed on: December 23, 1992.

Statement of Answer filed by Respondent on: March 25, 1993. Respondent's Submission Agreement signed on: March 25, 1993.

HEARING INFORMATION

Hearing Dates/Sessions: January 25, 1994 for two (2) sessions;
January 26, 1994 for two (2) sessions;
January 27, 1994 for two (2) sessions;
February 13, 1994 for two (2) sessions.

Hearing Location: Chicago, Illinois.

CASE SUMMARY

Claimant, John Mazur ("Mazur") alleged that respondents, David A. Noyes and Company, Inc. ("Noyes") and its representative, Joseph Baba ("Baba") solicited Mazur to invest in Med-U-Check, Inc. stock and its successor, Wessex International, Inc. on the representation that all funds invested would be used to take Med-U-Check public. Mazur also alleged that in addition to the above, Noyes, through Baba, guaranteed against loss and continued to promise a 3 to 1

return. Mazur alleged that to date, no public offering has taken place, no stock has been issued and no funds have been returned. Mazur set forth the following violations of Noyes and Baba: fraud, misrepresentation and deceptive practices in violation of Illinois Consumer Fraud and Deceptive Practice Act; common law fraud; breach of fiduciary duty; failure to supervise; breach of contract; breach of oral contract; and violation of respondeat superior.

Respondent Noyes generally denied the allegations set forth in the Statement of Claim. Noyes alleged that Mazur received no information from Noyes, sought none, and did not do any negotiating and due diligence with Noyes. Noyes also alleged that they directed Baba not to get involved with the matter and under no circumstances to suggest that Noyes was involved.

RELIEF REQUESTED

Claimant requested actual damages in the amount of \$663,000.00, punitive damages in the amount of \$1,989,000.00, interest, costs, and reasonable attorneys' fees.

Respondent requested that the panel enter no award on each of the claims, plus costs, and reasonable attorney's fees.

OTHER ISSUES CONSIDERED & DECIDED

Prior to the hearing, claimant John Mazur settled his claim against respondent Joseph Baba. Joseph Baba was subsequently dismissed as a party to the arbitration.

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 originals remain on file with the NASD.

AWARD

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

1. Respondent David A. Noyes and Company, Inc. shall be and hereby is liable for, and shall pay to the claimant, John Mazur, the sum of Three Hundred Fifty Five Thousand Dollars and No Cents (\$355,000.00);
2. The request for interest is denied;

3. The request for punitive damages is denied;
4. The request for attorneys' fees is denied;
5. Each of the parties shall bear their own costs and expenses incurred other than those specifically enumerated under Forum Fees below.

FORUM FEES

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

8 sessions X \$1000 = \$8000 minus hearing session deposit of \$1000 = net \$7000 due.

Forum fees Assessed Against respondent, David A. Noyes and Company, Inc. in the amount of \$7000.

Additional Fees assessed by the panel are payable to the National Association of Securities Dealers, Inc.

By The Arbitration Panel:

Dated:

2-18-94 s/s Donald E. Casey, Esq.
Donald E. Casey, Esq.
Presiding, Public Arbitrator

2-16-94 s/s Samuel Weisbard, Esq.
Samuel Weisbard, Esq.
Public Arbitrator

2-15-94 s/s Kelley Beach
Kelley Beach
Industry Arbitrator

Date Award Served By The NASD: 3-9-94