

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimants

Richard L. and Sherri W. Saltz

93-00059

Name of Respondents

Hibbard Brown & Co., Inc.  
Steven C. Sacco

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CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on January 7, 1993, Claimants Richard L. and Sherri W. Saltz, who appeared Pro Se, alleged that in December, 1990 Steven C. Sacco, registered representative at Respondent Hibbard Brown & Company, Inc. contacted them and introduced them to Respondent Hibbard Brown & Co., Inc. as a full service broker specializing in OTC stocks whereby Respondent Steven C. Sacco claimed that the greatest potential for investment returns was in the area of small, OTC stocks which Respondent Steven C. Sacco offered to present them with the best buying opportunities uncovered by Respondent Hibbard Brown & Co., Inc. research consultants, at which time, Claimant Richard L. Saltz told Respondent Steven C. Sacco that he was not comfortable investing in small, unlisted stocks and he would only consider NASDAQ listed stocks because Claimants wanted to be sure of liquidity and a positive prior earnings history. Claimants further alleged that Respondent Steven C. Sacco persuaded them to consider stocks which Respondents assured would soon be listed on NASDAQ at which time, Respondent Steven C. Sacco, over and over again, stated that First National Realty Associates, Linkon and Nacoma would soon be listed whereby, to date, none of these stocks have received listing on NASDAQ or any other exchange. Claimants contended that Respondent Steven C. Sacco's high pressure sales tactics always included references to the stock's great potential with never any mention of the downside risk, whereby Respondent Steven C. Sacco clearly exhibited a careless disregard for Claimants' investment objectives and low risk tolerance. Claimants further contended that Respondent Steven C. Sacco withheld information that would have shown the tremendous amount of risk involved with these investments and they never received a prospectus for any of the recommended stocks. Claimants asserted that Respondent Steven C. Sacco used high-pressure sales tactics to lure them to invest in speculative

securities inconsistent with their investment objectives and Respondent Hibbard Brown & Co., Inc. obviously encouraged the high pressure sales tactics, thus Respondents are liable for Claimants' losses.

Respondents Hibbard Brown & Co., Inc. and Steven C. Sacco, by and through their in-house counsel Steven B. Caruso, Esq., maintained that on or about the 21st day of December, 1990 Claimants Richard L. and Sherri W. Saltz established an account with Respondent's Hibbard Brown & Co., Inc. Palm Beach, Florida office and based on Claimants' personal and financial information provided to Respondent Steven C. Sacco, in addition to Claimants' stated understanding of the investment arena and desire to consider opportunities with a greater degree of risk in pursuit of potentially greater returns, the Claimants were determined to be suitable for equity investments, in general, and long-term growth situations, in particular. Respondents further maintained that between December, 1990 and March, 1992 Respondent Steven C. Sacco presented a number of investment recommendations to the Claimants, some of which they elected to pursue and some of which they declined whereby, on each and every occasion where a purchase recommendation was made to the Claimants, they were given a fair and balanced presentation of both the investment merits and risks that were associated with each of the same. Respondents contended that Claimants not only had constructive notice of the risks that were associated with their investments based upon their prior investment experiences, but more importantly, Claimants had actual notice thereof as well based on both the verbal and written disclosures provided by the Respondents, thus Claimants do not state a cause of action against which relief may be granted.

#### **RELIEF REQUESTED**

Claimants Richard L. and Sherri W. Saltz requested \$5,400.00 in actual damages and reimbursement of the NASD filing fee.

Respondents Hibbard Brown & Co., Inc. and Steven C. Sacco requested the claim be dismissed in its entirety.

#### **AWARD**

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, C. Marcus Harris, 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 December 31, 1992 and by the Respondents on February 22, 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. The claim of Claimants Richard L. and Sherri W. Saltz against Respondents Hibbard Brown & Co., Inc. and Steven C. Sacco is dismissed.
2. The parties shall bear their respective costs.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants Richard L. and Sherri W. Saltz shall be retained by the NASD, Inc. Respondents Hibbard Brown & Co., Inc. and Steven C. Sacco are jointly and severally liable and shall pay to the Claimants the sum of \$150.00, as reimbursement of the filing fee.

**AFFIRMATION**

I, C. MARCUS HARRIS, 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: July 29, 1993