

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimants

Frank J. & Marie R. Salem

93-00362

Name of Respondent

Hibbard Brown & Company Inc.

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REPRESENTATION

Claimants, Frank J. and Marie R. Salem appeared pro-se.

For Respondent, Hibbard Brown & Company, Inc.: Steven B. Caruso, Esq. of  
Hibbard Brown & Company Inc.

CASE INFORMATION

Statement of Claim filed: February 1, 1993.

Claimants' Submission Agreement signed on: February 6, 1993.

Statement of Answer filed by Respondent, Hibbard Brown & Company, Inc. on:  
May 5, 1993.

Respondent, Hibbard Brown & Company, Inc. Uniform Submission Agreement  
signed on: May 5, 1993.

HEARING INFORMATION

Hearing Date/Sessions: July 29, 1993 - Two Sessions

Hearing Location: Marriott Hotel - Cincinnati, Ohio.

### CASE SUMMARY

Claimants, Frank and Marie Salem allege that had been the victims of a scam perpetrated by Hibbard Brown & Company, Inc. ("Respondent"). More specifically, Claimants allege that they were sold stocks (Site Based Media, Inc. and Wolf Financial Group, Inc.) which were not in their best interest and that they were sold these stocks because very high commissions were generated as a bonus to the brokers for recommending these stocks.

Respondent asserts that is unable to discern any evidence of misconduct or impropriety which would warrant consideration of the relief requested. Respondent maintains that the Claimants attempted to hold Respondent responsible as a result of the market performance of their investments portfolios having failed to have met their expectations.

### RELIEF REQUESTED

Claimants, Frank and Marie Salem requested damages of \$40,500 from account 418-60196 and \$31,500 from account 418-60950.

Claimants further requested punitive damages in the amount of \$10,000.

Respondents requested dismissal of all claims against it, plus attorney's fees.

### OTHER ISSUES CONSIDERED & DECIDED

Respondent moved to dismiss the Statement of Claim pursuant to Section 16 of the Code of Arbitration Procedure because the claimants' Uniform Submission agreement was defective. Namely, the Claimants opened trust accounts and, as such, a copy of the trust agreement was not provided by the Claimants as required by the Code.

Respondent further moved to strike exhibit to Statement of Claim pursuant to Section 25 of the Code. Respondent asserted that the Claimants had attached as an exhibit to their Statement of Claim a newspaper article which, if not stricken, will be admitted into evidence along with the narrative.

Respondent's motions were denied by the panel at the hearing.

### 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:

FINDINGS OF FACT

Claimants in September, 1991, shortly after Claimant Frank Salem's initial contact with broker Steve Hedger of Hibbard Brown & Co., purchased shares of Site Based Media, Inc. Although Claimants made that purchase based upon the recommendation of Steve Hedger, they did not make the purchase through Steve Hedger of Hibbard Brown, but, rather, made the purchase through Fidelity Investments.

Shortly after his initial purchase of Site Based Media, Claimants sold that stock at a profit through Fidelity Investments.

Claimants from time to time held stock for a relatively short period of time, including the stock which they initially purchased through Steve Hedger at Hibbard Brown, Digital Products Corporation, which they held for only a few days and sold at a profit.

1. As a result of the foregoing, it is the panel's conclusion that Claimants' purchases of Site Based Media, Inc. and Wolf Financial Group, Inc. through Steve Hedger, while he was employed at Hibbard Brown & Company, were suitable and were not the result of undue harassment or pressure.
2. Accordingly, the panel finds unanimously for the Respondents, Hibbard Brown & Company. The Claimants' claims are hereby dismissed in their entirety.
3. Each party shall bear their respective costs of this action, including attorney's fees.

FORUM FEES

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

	\$150.00	Non-refundable filing fee
	\$300.00	Pre-hearing conference fee
	<u>\$1,000.00</u>	Hearing Session fees (2 sessions x \$500.00)
TOTAL:	\$1,450.00	

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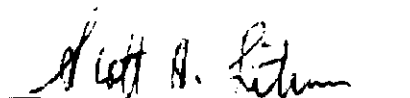
1. Claimants are hereby assessed forum fees in the amount of \$725.00. Claimants are entitled to offset this amount with the \$650.00 previously deposited with the NASD, Inc. Accordingly, Claimants are hereby directed to pay the balance of \$75 to the NASD, Inc.

2. Respondents is hereby assessed forum fees in the amount of \$725.00. Respondent is directed to pay this amount to the NASD, Inc.

Concurring Arbitrator's Signature

Name

Industry Arbitrator



Scott Litwin

Date of Decision: September 23, 1993

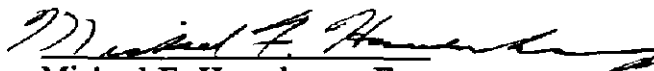
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Concurring Arbitrator's Signature  
Name

Public Chairperson

  
Michael F. Haverkamp, Esq,

Executed on:

~~Date of Decision:~~ 9/17/93

Date of Decision: September 23, 1993

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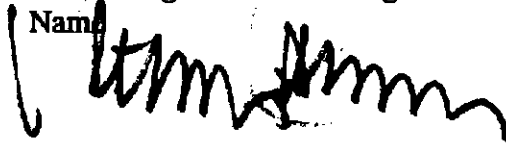
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Concurring Arbitrator's Signature

Name



Patrick D. Carroll

Public Arbitrator

Date of Decision: September 23, 1993