

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Leslie and Priscilla M. Pearce

93-01117

Name of Respondents

M.H. Meyerson & Co., Inc.
Thomas T. Herchakowski

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on March 23, 1993, Claimants Leslie & Priscilla Pearce, who appeared Pro Se, alleged that Respondent Thomas T. Herchakowski, of the Respondent firm M.H. Meyerson & Co., Inc., failed to disclose to him that it was a consultant firm to Geotek, an investment that Respondent Thomas Herchakowski recommended he purchase, and that he was convinced to sell this stock in order to purchase American International stock, also upon the recommendation of the Respondent. The Claimants further alleged that the American International stock was never purchased and he was not informed of that until he finally got in touch with Respondent Thomas Herchakowski, who then explained he was not eligible to buy the stock. The Claimant contended that he is entitled to recover losses he has incurred due to the Respondents' wrongdoing.

Respondent M.H. Meyerson & Co., Inc., through its Senior VP and Compliance Officer, Leonard Parker, maintained that the Claimants were notified of its relationship as a consultant to Geotek when the stock was purchased and again upon its sale. The Respondent also maintained that these notifications are sent by its closing agent.

Respondent Thomas Herchakowski, who appeared Pro Se, maintained that he recommended Geotek to the Claimants based on available information at that time. The Respondent further maintained that because the price of the stock fell after the Claimants' purchase and due to the displeasure of the Claimants, once the stock rose above purchase price, he suggested to the Claimants that the stock be sold. The Respondent contended that when the stock rose further he learned that there was a buy recommendation from another firm, which neither he nor M.H. Meyerson & Co., Inc. were aware of prior to his recommendation to sell the stock.

RELIEF REQUESTED

Claimants Leslie & Priscilla Pearce requested actual damages in the amount of \$5,293.00.

Respondents M.H. Meyerson & Co., Inc. and Thomas T. Herchakowski requested that the claims of the Claimants be dismissed.

AWARD


Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Herman Friedberg, 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 March 19, 1993, by Respondent M.H. Meyerson & Co., Inc. on April 23, 1993 and by Respondent Thomas T. Herchakowski on April 23, 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 claims of the Claimants Leslie & Priscilla Pearce against Respondents M.H. Meyerson & Co., Inc. and Thomas T. Herchakowski are dismissed in their entirety.
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 shall be retained by the NASD, Inc.

AFFIRMATION

I, HERMAN FRIEDBERG, 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.



Herman Friedberg, Esq.

DATE OF DECISION: August 3, 1993