

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Robert Fischer

93-01857

Name of Respondent

M.H. Meyerson & Co., Inc.

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CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on May 7, 1993, Claimant Robert Fischer, who appeared Pro Se, alleged that on November 24, 1992 he was solicited by Mr. Frank Lorenzo of Respondent M.H. Meyerson & Co., Inc. in Jersey City, New Jersey to invest in a company by the name of Deprenyl USA whereby Respondent by and through Mr. Lorenzo advised him that the warrants were the best way to participate in Deprenyl USA by way of providing more leverage or "more bang for the buck", at which time, the warrants were not described as a speculative investment. Claimant further alleged that he agreed to purchase 1,000 warrants at 2/4 and the commission charged was \$143.00 for a total of \$2,393.00. Claimant contended that on December 8, 1992 Respondent by and through Mr. Lorenzo called him to urge him to buy an additional 5,000 warrants whereby the price had come down almost a full point but he agreed that it would be a good opportunity to average down Claimant's purchase price, at which time, Claimant bought an additional 1,000 warrants at 1 3/8. Claimant further contended on January 25, 1993 he called Respondent by and through Mr. Lorenzo to express his concern over the discrepancy that existed between the price of the warrants and the common whereby the warrants were not appreciating with the common as they should have, but were actually depreciating, at which time, Claimant directly and specifically asked Mr. Lorenzo if there were a possibility that the warrants would not be extended. Claimant asserted that Respondent by and through Mr. Lorenzo replied that because Respondent was the investment counselor to Deprenyl USA, they would not take such an action unless Respondent approved, whereby Mr. Lorenzo assured Claimant that he had knowledge that the warrants were about to be extended, at which time, Claimant relied on his statement. Claimant further asserted that on January 26, the day after Claimant spoke to Mr. Lorenzo, the bid price of the warrants dropped to less than \$1.00 per share and subsequently, on February 2, Deprenyl USA announced

that their warrants would not be extended past April 19, 1993 and would be exercisable only up to that date, at which time, coinciding with the announcement the price quickly dropped to \$.50 and then to \$.25. Claimant argued that the investment was not presented as a speculative investment yet in five short months due to misrepresentation and misstatements, in addition to apparent complete lack of diligence on the part of Respondent, Claimant lost 98% of his investment.

Respondent M.H. Meyerson & Co., Inc. by and through their Compliance Officer, Leonard Park, S.V.P., maintained that the account was opened on November 24, 1992 with the initial transaction to purchase 1,000 shares of Deprenyl USA, Inc. Warrants at 2 3/8 per share, the market at the time of execution was 2 1/8 bid offered at \$2.25 with a mark up of \$0.125 per share. Respondent further maintained that Claimant Robert Fischer was advised at the time of the purchase that there was a mark up in lieu of a commission of \$0.125 per share at which time, Claimant agreed to this transaction whereby he received a confirmation indicating the transaction was reported at \$2.25 and the difference was \$0.125 per share. Respondent contended that at no time did Claimant advise them of his dissatisfaction with this transaction and subsequently on December 8, 1992, Claimant purchased an additional 1,000 shares of Deprenyl USA, Inc. Warrants at 1 7/16 whereby this transaction was reported at 1 3/8 with a mark up of \$0.625 in lieu of commission. Respondent further contended that Claimant was advised the price of the transaction and the fact that the difference between the inside market and the price he paid was the mark up. Respondent asserted that they are a paid consultant to Deprenyl USA, Inc. and a market maker in this security; however, Respondent did not have any unpublished information regarding Deprenyl USA, Inc. and did not use any undue selling methods or attempted to influence their registered representatives to buy or sell Deprenyl USA, Inc. Warrants. Respondent further asserted that Claimant has indicated on the account form that he has been employed as a financial analyst with Simon & Schuster for the last three years and indicated that he has experience in purchasing calls and puts, spreads, uncovered sale of calls with an investment objective of speculative trading profits. Respondent argued that Claimant was advised that this issue was a speculative investment, and that there were no misrepresentation or misstatements nor was there lack of due diligence, thus the claim should be denied.

#### **RELIEF REQUESTED**

Claimant Robert Fischer requested \$3,746.50 in actual damages.

Respondent M.H. Meyerson & Co., Inc. 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, Arnold Limsky, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on May 3, 1993 and by the Respondent on June 17, 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 Claimant Robert Fischer against Respondent M.H. Meyerson & Co., Inc. is dismissed.
2. The parties shall bear their respective costs.
3. The \$125.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Robert Fischer shall be retained by the NASD, Inc.

**AFFIRMATION**

I, **ARNOLD LIMSKY**, 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.



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Arnold Limsky

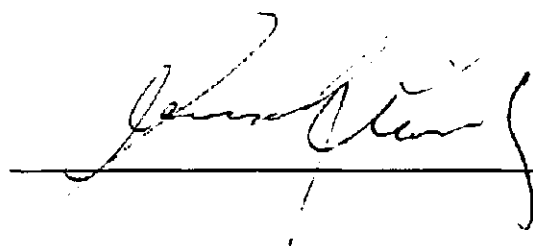
DATE OF DECISION: September 29, 1993

STATE OF: New Jersey

SS:

COUNTY OF: Monmouth

On this 24<sup>th</sup> day of Sept. 1993, before me personally appeared Arnold Linsky to me known and known before me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

 Angela Granza

ANGELA GRANZA  
NOTARY PUBLIC OF NEW JERSEY  
My Commission Expires October 22, 1995