

N.A.S.D. AWARD**NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.****In the Matter of the Arbitration Between****Name of Claimants****John and Susan Koral & K & H Management,
a General Partnership****and****93-01991****Name of Respondents****Rocky Mountain Securities & Investments, Inc.,
Terry Steen and Eric Blockhus****REPRESENTATION OF PARTIES****John and Susan Koral & K & H Management, a General Partnership ("Claimants") were represented by Richard E. Romeo, Esq., Boulder, Colorado.****Rocky Mountain Securities & Investments, Inc. ("RMS") was represented by Dennis A. Graham, Esq. of Hopper and Kanouff, P.C., Denver, Colorado.****Terry Steen ("Steen") was represented by Robert A. Seefried, Esq. of Robert A. Seefried, P.C., Boulder, Colorado.****Eric Blockhus ("Blockhus") was represented by Phillip S. Wong, Esq. of Schey & Schey, P.C., Longmont, Colorado.****CASE INFORMATION****The Statement of Claim was filed on or about May 19, 1993. Submission Agreement of Claimant John Koral, individually and as general partner of K & H Management; Susan Koral, individually; and Mark Everett as general partner of K & H Management was signed on June 1, 1993.****Statement of Answer of Respondent RMS was filed on or about July 23, 1993. Submission Agreement of Respondent RMS was signed on July 21, 1993 by S. James Horning.****Statement of Answer of Respondent Steen was filed on or about August 10, 1993. Submission Agreement of Respondent Steen was signed on August 10, 1993.**

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Statement of Answer of Respondent Blockhus was filed on or about August 4, 1993. Submission Agreement of Respondent Blockhus was signed on July 22, 1993.

HEARING INFORMATION

The hearing was held on Wednesday, December 8, 1993 for three (3) sessions and Thursday, December 9, 1993 for three (3) sessions in Denver, Colorado for a total of six (6) sessions.

CASE SUMMARY

Claimants alleged that they purchased stock through Respondents in Stat Tech International as a result of numerous representations about the stock which Respondents either knew or should have known were false and misleading. It was also alleged that Respondent RMS was a market maker in the stock and that Respondents Steen and Blockhus actively solicited Claimants. Claimants further alleged that Respondent failed to execute a sell order on several occasions. Claimants specifically alleged the following causes of action against Respondents Steen and Blockhus: negligence; bad faith breach of contract; breach of fiduciary duty; and fraud. The following causes of action were alleged against all Respondents: violation of §12(2) of the Securities Act of 1933; violations of the Colorado Anti-Fraud Statutes CRS 11-51-501; negligent misrepresentation; and violations of §5 of the Securities Act of 1933. Claimants alleged the following causes of action against Respondent RMS: negligent supervision and *respondent superior*. OK 10,000
KPP

Respondent RMS denied the allegations against it and stated that Claimants signed a written offer to purchase designated securities, a written statement per S.E.C. Rule 15c2-6, an acknowledgment that the transaction was effected without solicitation or recommendation by any person associated with it, and that the Claimants had read the January 21, 1992 press release. Respondent RMS further stated that subsequent to the Claimants' purchase of 3,750 shares of Stat-Tech, it was determined that Stat-Tech had perpetrated a massive fraud on its investors.

The allegations of the Claimants were denied by Respondent Steen. Respondent Steen stated that Mr. Koral was a sophisticated investor who had a history of gambling on penny stock investments and that claimants fail to state with any particularity exactly what was misrepresented to them by him or what he knew or should have known about the company that was not disclosed prior to the Claimants making their purchases. It was also stated that the Claimants make no allegation respecting the number of shares that were purportedly to be sold or the price at which they were to be sold.

Respondent Blockhus denied the allegations against him. It was stated by Respondent Blockhus that prior to the purchase of Stat-Tech by Claimant K & H Management, Claimants provided written disclosures signed by the general partners of K & H Management and informed them that the investment in Stat-Tech was a very risky investment and provided them with written

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information that Stat-Tech was undergoing a financial investigation and was experiencing internal problems.

RELIEF REQUESTED

Claimants requested an award in the amount of \$55,576.00 together with statutory interest, exemplary damages, reasonable attorney's fees, and costs.

Respondent RMS requested that the claims asserted in this matter be denied.

Respondent Steen requested that the claims asserted in this matter be denied.

Respondent Blockhus requested that the claims asserted in this matter be dismissed and that he be awarded attorney's fees, costs, and other relief deemed to be just and proper.

OTHER ISSUES CONSIDERED & DECIDED

Claimant Susan Koral did not appear or testify at the hearing of this matter.

During the course of the hearing, Claimants clarified that the claims asserted by K. & H. Management, a general partnership were asserted against Respondents RMS and Blockhus and not Respondent Steen and that the claims asserted by John and Susan Koral were asserted against Respondents RMS and Steen and not Respondent Blockhus.

After Claimants rested, each Respondent asserted a Motion to Dismiss. Respondent Steen also asserted a motion for fees due to the false statements by Claimants in the Statement of Claim and answers to interrogatories. After considering the evidence and testimony presented and the arguments presented on behalf of each party, the undersigned arbitrators granted each Motion to Dismiss. The undersigned arbitrators denied the motion for fees asserted by Respondent Steen.

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. The claims asserted in this matter shall be and hereby are dismissed in their entirety upon the motions of Respondents.
2. Each party shall bear its own costs, expenses and attorney's fees incurred in this matter not specifically enumerated herein.

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FORUM FEES


Pursuant to §43(c) of the N.A.S.D. Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. ("N.A.S.D.") shall retain the non-refundable filing fee in the amount of \$150.00 and shall retain as forum fees the hearing session deposit in the amount of \$500.00 previously deposited with the N.A.S.D. on behalf of the Claimants. Claimants John and Susan Koral shall pay to the N.A.S.D. the sum of \$1,000.00, Respondent Rocky Mountain Securities & Investments, Inc. shall pay to the N.A.S.D. the sum of \$750.00, and Respondent Terry Steen shall pay to the N.A.S.D. the sum of \$750.00 as additional forum fees.

Forum fees are calculated at the rate of \$500.00 per hearing session and \$300.00 for each prehearing conference, if any. Fees are payable to the National Association of Securities Dealers, Inc.


Dated:


James B. Eichberg
Public Arbitrator, Presiding Chair

December 9, 1993


Kathryn P. Beller, Esq.
Public Arbitrator

December 9, 1993


Gordon A. Yale, CPA
Industry Arbitrator

December 9, 1993