

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Martha Merritt

93-02289

Name of Respondents

Paulson Investment Company, Inc.
Easton Blake

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on June 9, 1993, Claimant Martha Merritt, through her attorney, Cynthia D. DiBartolo, Esq., alleged that Respondent Easton Blake misrepresented the nature of an investment in Special Delivery Systems, Inc. stock by expressing to her that the stock was safe and liquid with dramatic price appreciation potential as a short-term investment. The Claimant also alleged that the stock was in fact illiquid, unsafe, and unsuitable for her needs which were expressed numerous times to Respondent Easton Blake. Claimant Martha Merritt contended that Respondent Paulson Investment Company, Inc., as the employer of Respondent Blake, is equally liable for the damages she has suffered.

Respondent Easton Blake, who appeared Pro Se, maintained that he had no knowledge or information to form a belief as to the truth of Claimant's allegations, except that he admitted that he was a registered independent contractor retained by Respondent Paulson from March, 1991 to May, 1991, and that the contents of the Special Delivery Systems, Inc. prospectus was truthful and complete.

Respondent Paulson Investment Company, Inc., through its counsel, Kenneth Pasquele, Esq. of the firm Stroock & Stroock & Lavan, maintained that it had no knowledge or information sufficient to form a belief as to the truth of the allegations made by Claimant, except it admitted that Respondent Easton Blake was a registered independent contractor retained by Paulson Investment Company, Inc., and that it is a member firm of the NASD. The Respondent further alleged that Claimant's claim is barred by the applicable statutes of limitations and the acts allegedly done by Respondent Blake were outside the scope of his employment with the firm.

In addition to seeking a dismissal of this action, this Respondent filed a cross-claim against Respondent Blake on September 7, 1993, seeking indemnification from Blake in the event a judgment was rendered against Paulson Investment Company, Inc.

Respondent Easton Blake failed to file an answer to the cross-claim filed by Paulson Investment Company, Inc.

RELIEF REQUESTED

Claimant Martha Merritt requested \$8,565.08 in actual damages, plus interest from the date of the liquidation of her position in Kansas Gas & Electric Co., costs and such other relief as the Arbitrator deems appropriate.

Respondent Paulson Investment Company, Inc. requested that the Claimant's Statement of Claim be dismissed, plus costs, attorney's fees, and indemnification or contribution from Respondent Easton Blake if it was found liable in this action.

Respondent Easton Blake requested that the claims of the Claimant be dismissed. Respondent Easton Blake failed to file an answer to the cross-claim filed by Respondent Paulson Investment Company, Inc.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Frederick M. Joseph, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on July 19, 1993, by Respondent Paulson Investment Company Inc. on August 17, 1993, and by Respondent Easton Blake on September 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. Respondents Paulson Investment Company Inc. and Easton Blake are jointly and severally liable and shall pay to Claimant Martha Merritt \$8,565.08 in actual damages.
2. Respondents Paulson Investment Company Inc. and Easton Blake are jointly and severally liable and shall pay to Claimant Martha Merritt simple interest at the legal statutory rate for the state of New York from June 11, 1991 to the date of payment of the Award.

3. Respondents Paulson Investment Company Inc. and Easton Blake are jointly and severally liable and shall pay to Claimant Martha Merritt the sum of \$2,500.00 representing attorney's fees.
4. The parties shall bear their respective costs.
5. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Martha Merritt shall be retained by the NASD, Inc. The \$575.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by Respondent Paulson Investment Company Inc. for the cross-claim filed, shall also be retained by the NASD, Inc. Respondents Paulson Investment Company, Inc. and Easton Blake are jointly and severally liable and shall pay to Claimant Martha Merritt \$150.00 as reimbursement of the filing fee.

AFFIRMATION

I, **FREDERICK M. JOSEPH**, 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: March 30, 1994

Page Four
Award 93-02289

STATE OF: NEW YORK

SS:

COUNTY OF: NEW YORK

On this 16th day of March, 1994, before me personally appeared Frederick M. Joseph 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.

LEN T. MADLANSACAY
Notary Public, State of New York
No. 31-4813583
Qualified in New York County
Commission Expires October 31, 1994

Len T. Madlansacay