

12/95

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Khalid Malik

CASE NO.
93-02592

Name of Respondent

H. J. Meyers & Co. Inc.

REPRESENTATION

For Claimant, Khalid Malik ("Malik"), Harvey J. Eger, Esq. located in Pittsburgh, PA

For Respondent, H.J. Meyers & Company ("Respondent"), Robert A. Uhl, Esq., located in Los Angeles, CA.

CASE INFORMATION

Statement of Claim was filed on June 29, 1993.

Claimant's Submission Agreement was signed on June 29, 1993.

Statement of Answer was filed by Respondent on August 9, 1993.

Respondent's Submission Agreement was filed on July 21, 1993.

HEARING INFORMATION

Pre-Hearing Conference: May 17, 1994 - 1 session

Hearing Dates/Sessions: February 7, 1995 - 2 sessions
 February 8, 1995 - 2 sessions

Hearing Location: William Penn Hotel, 560 William Penn Plaza, Pittsburgh, PA.

CASE SUMMARY

Claimants alleged that on April 12, 1993, he opened an account at H.J. Meyers with their account executive. Claimant alleges that he agreed to purchase 500 shares of Nestles, a company he believed was to be listed on the New York Stock Exchange in three weeks, at \$40.25 per share, for a total purchase price of \$20,228.

Claimant further alleges that on or about April 25, 1993 Claimant called his account executive and asked

that his account be transferred to Advest, Inc., a local Pittsburgh area brokerage firm. Claimant alleges that he submitted a formal request for the transfer of his account to Advest but the transfer did not occur.

Moreover, Claimant alleges that Respondent opened a margin account on behalf of Claimant which showed an unexplained opening balance as of May 1, 1993, in the amount of \$10,732.50. Claimant alleges that Respondent did not have authority to open this account.

Claimant further alleges that as of May 3, 1993, Respondent charged Claimant's account for shares of Superconductor Technologies. Claimant alleges that Respondent did not have the authority to make this purchase.

Claimant further alleges that during the first week in May, Claimant contacted Advest, Inc. and was informed that respondent was refusing to transfer the account to Advest due to a \$92,153.00 negative balance in Claimant's margin account. Claimant alleges that he sent a personal check in that amount to Respondent, at the urging to Advest so that his account would be transferred to Advest. Claimant alleges that unbeknownst to both Advest and to Claimant, Respondent had made an additional purchase of Superconductor Technologies on Claimant's margin account, as stated above, and Claimant's account as per respondent's records had a negative balance of \$185,127.50.

Claimant alleges that on May 18, 1993 Claimant has notified by Advest, Inc., that Claimant's entire account (The Nestles Stock & Superconductor Technologies Stock) had been liquidated for non-payment. Claimant alleges that he immediately stopped payment on his \$92,153.00 check.

Claimant alleges that Respondent acted in reckless disregard of Claimant's best interests by purchasing securities of a speculative native on margin without Claimant's prior consent, express or implied. Claimant alleges that Respondent acted in a fraudulent and deceptive manner as to the handling of Claimant's account as follows: by executing unauthorized transactions; ;by executing unauthorized transactions in securities for which Respondent was a market maker; by failing to provide material information with respect to the securities in question; by failing to make proper disclosures; and by refusing to honor claimant's requests to transfer his account to another brokerage firm. Claimant further alleges that Respondent breached its fiduciary duty to Claimant.

Claimant seeks to recover a sum not in excess of \$100,000 as follows: the sum of \$20,228.00's loss as a result of respondent's action in liquidating the Nestles Stock; compensatory and punitive damages as the panel deems fair and just; all out-of-pocket cost; and interest on any damages awarded from April 12, 1993, the original investment date.

Respondent denies that it engaged in any wrongful conduct including but not limited to acting in a fraudulent manner. Respondent also denies that it executed any unauthorized transactions; failed to provide material information; failed to make any proper disclosure; failed to honor Claimant's request to transfer his account to another brokerage firm; violated any federal securities laws; and breached any fiduciary duty owing to Claimant.

RELIEF REQUESTED

Claimants requested: \$20,228 representing loss from respondent's action in liquidating Nestles; compensatory and punitive damages; out-of-pocket expenses including attorney's fees; interest on any damages awarded from date of original investment, April 12, 1993.

Respondent moves for the dismissal of the claim with prejudice with legal fees and costs incurred by respondent.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that the Award in this matter may be executed in counterpart copies and signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASD.

This case was consolidated with Case Number 93-02610 on October 5, 1993 by the Director of Arbitration, pursuant to section 25(d) of the code.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing and post hearing submissions the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. All claims of Respondent are denied.
2. Respondent is liable to Dr. Malik in the amount of **THIRTY THOUSAND DOLLARS AND ZERO CENTS (\$30,000.00)**.
3. Respondent is liable for all forum and filing fees.

FORUM FEES

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

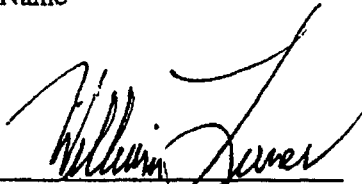
Nonrefundable filing fee:	\$ 100.00
Hearing Session Deposit (\$400.00 x 4 sessions)	\$1600.00
Pre-Hearing Conference	\$ 300.00
Total Fees:	<u>\$2000.00</u>

1. Claimant paid \$650.00.
2. Respondent owes \$650.00 payable directly to Claimant and \$1,350.00 payable to the NASD.

Fees are payable to the National Association of Securities Dealers, Inc.

Concurring Arbitrators' Signatures

Name



William Lerner, Esq.
Chairperson

Public

John H. Ewing, Jr.

Industry

Harry E. Gerhard, Jr.

Public

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Date of Decision: December 27, 1995

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22 Dec 1995

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