

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

John and Mary G. Leslie

93-03451

Name of Respondents

Investment Management & Research, Inc.
Michael Ritschel

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on September 3, 1993, Claimants John and Mary G. Leslie, who appeared Pro Se, alleged that Respondents Investment Management & Research, Inc. and Michael Ritschel misrepresented a report on Paterson Dental Co., in which Claimants owned stock. Claimants further alleged that Respondent Michael Ritschel insisted that Claimants sell the stock due to a derogatory report on the company, but that the report, in fact, favorable and not derogatory as indicated by Respondent. Claimants further alleged that they sold the stock only because of Respondents' recommendation. Claimants contended that the stock price subsequently went up, and that Claimants were deprived of profit which would have been realized if not for Respondents' advice. Claimants further contended that the sole purpose for Respondents' advice was to churn Claimants' account, thereby generating commissions.

Respondents Investment Management & Research, Inc. and Michael Ritschel, through their in-house counsel, John N. Critchlow, Esq., St. Petersburg, FL, maintained that the Claimants' claim failed to state a legal cause of action and that they committed no wrongdoing, and also maintained that the true basis for Claimants' claim is that he discovered, after the fact, that he could have made more money had he held onto the stock. The Respondents contended that Michael Ritschel did not churn the Claimants' account, and that he at all times, fulfilled the standard of care applicable to a broker, and has not committed any wrongdoing; therefore, the claims of the Claimants should be dismissed.

RELIEF REQUESTED

Claimants John and Mary G. Leslie requested \$2,164.00 in actual damages, plus treble damages, or in the alternative, the return of the Paterson Dental stock, which was sold.

Respondents Investment Management & Research, Inc. and Michael Ritschel requested that the Claimants' claims be dismissed in their entirety, plus attorney's fees.

OTHER ISSUES CONSIDERED & DECIDED

The Motion to Strike Respondents' Answer was reviewed and considered by the Arbitrator, and is denied.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, G. Gale Roberson, Jr., 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 September 9, 1993, by Respondent Investment Management & Research, Inc. on January 13, 1994 and by Respondent Michael Ritschel on October 27, 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 Claimants John and Mary G. Leslie against Respondents Investment Management & Research, Inc. and Michael Ritschel are dismissed in its entirety.
2. Respondents' Motion for Sanctions against Claimants is denied.
3. The parties shall bear their respective costs and attorney's fees.
4. 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.

Page Three
Award 93-03451

AFFIRMATION

I, **G. GALE ROBERSON, JR., 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.



Signature of Arbitrator

DATE OF DECISION: May 6, 1994