

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

John P. Milcetic

93-03568

Name of Respondents

Hibbard Brown & Co.
Gary G. Peirce

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on September 9, 1993, Claimant John P. Milcetic, who appeared Pro Se, alleged that Respondent Gary G. Peirce, as an employee of Respondent Hibbard Brown & Co., Inc., called the Claimant and used high-pressure sales tactics in order to sell the Claimant stock. Claimant further alleged he told Respondent Gary G. Peirce that his investment objective was long-term appreciation in conservative investments. Claimant contended that he purchased 500 shares of Linkon Corporation common stock, 500 shares of CCC Franchising Corporation common stock and 500 shares of Nacoma Consolidated Industries Incorporated common stock through Respondents, and that he was led to believe that these stocks would meet his investment objectives. Claimant further contended that most of these stocks were "Pink Sheet" stocks which were very risky, and had he known of this risk, he would never had purchased them. The Claimant contended that as a result of these occurrences, he has suffered damages for which the Respondents should be held liable.

Respondent Hibbard Brown & Co., Inc., through Hibbard Brown & Co., Inc.'s in-house counsel Steven B. Caruso, Esq., New York, New York, and Respondent Gary G. Peirce, who appeared Pro Se. maintained that Claimant's claim should be dismissed because it is encompassed within a class action proceeding presently pending in the United States District Court for the District of New Jersey.

Respondents further maintained that the Claimant's stated investment objective was growth with speculation, and that Claimant was always advised of any material changes or developments in his stock prices. Respondents further maintained that the Claimant waited more than two years to voice this dispute when he chose to engage in, and always understood, the transactions in question. Respondents maintained that due to the above they should not be held liable in this matter.

RELIEF REQUESTED

Claimant John P. Milcetic requested \$8,006.00 in actual damages, and \$943.93 in interest.

Respondents Hibbard Brown & Co., Inc. and Gary G. Peirce requested that the Statement of Claim be dismissed in its entirety.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single public arbitrator, Lucy J. Karl, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on September 7, 1993, by Respondent Hibbard Brown & Co., Inc. on October 31, 1993, and by Respondent Gary G. Peirce on January 26, 1994.

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 Hibbard Brown & Co., Inc. and Gary G. Peirce are jointly and severally liable and shall pay to the Claimant John P. Milcetic \$7,000.00 in actual damages.
2. Respondents Hibbard Brown & Co., Inc. and Gary G. Peirce are jointly and severally liable and shall pay to the Claimant John P. Milcetic simple interest at the rate of 12% per annum from September 12, 1993 to the date of payment of the award.
3. The parties shall bear their respective costs, including attorneys' fees.

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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.

AFFIRMATION

I, LUCY J. KARL, ESQ., do hereby affirm upon my oath of 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: June 9, 1994