

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimants

Wayne R. and Joan E. Harding, Trustee  
for the benefit of Wayne R. Harding & Joan E. Harding Trust

93-04210

Name of Respondent

Scottsdale Securities, Inc.

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CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on October 13, 1993, Claimants Wayne & Joan Harding, TTEES, who appeared Pro Se, alleged that on July 16, 1993 they were advised by Respondent Scottsdale Securities, Inc. that Allen Group Preferred A Shares had been called at \$25.525 a share plus accrued dividends of \$3.0625. The Claimants further alleged that they later noticed that the preferred shares had a conversion value and that, if converted, they would have received \$9,021.87 over what they received from the redemption. The Claimant Wayne Harding further alleged that while he was out of town, his son sorted through the mail and did not see a copy of the Notice of Reorganization. The Claimants contended that the Respondent had a duty to notify them, not to simply engage in a fallable mechanical process.

Respondent Scottsdale Securities, Inc., through its in-house counsel, Mark Finnegan, Esq., maintained that it fulfilled its obligation to provide legal notice of the reorganization by industry standards, sending the notice by first class mail. The Respondent further maintained that it is a true discount firm and adheres strictly to the policy of no solicitation, no recommendations and no advice. The Respondent further maintained that it is not responsible to track down customers or to use extraordinary means of communications such as faxing, certified mail or calling customers to see whether or not they got notices or monthly statements, and that therefore it should not be held liable in this matter.

RELIEF REQUESTED

Claimants Wayne & Joan Harding, TTEES, requested \$10,000.00 in actual damages, plus attorney's fees.

Respondent Scottsdale Securities, Inc. 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, Robert M. Shavick, 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 October 8, 1993 and by the Respondent on December 23, 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. Respondent Scottsdale Securities, Inc. is hereby liable and shall pay to the Claimants Wayne and Joan Harding, TTEES an award for actual damages in the amount of \$9,021.00.
2. Respondent Scottsdale Securities, Inc. is liable and shall pay interest on the award at the rate of 12% per annum from July 15, 1993 until the date of payment of the Award.
3. Respondent Scottsdale Securities, Inc. is hereby liable and shall pay to Claimants Wayne and Joan Harding attorney's fees in the amount of \$1,000.00.
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 Claimants shall be retained by the NASD, Inc. Respondent Scottsdale Securities, Inc. is liable and shall pay \$150.00 to the Claimant as reimbursement of the filing fee.

AFFIRMATION

I, **ROBERT M. SHAVICK, 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.

A handwritten signature in cursive script, reading "Robert M. Shavick", is written over a horizontal line.

Signature of Arbitrator

**DATE OF DECISION:** March 29, 1994