

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Barry L. Hines

93-04260

Name of Respondents

Albert Palmiere, III
Steven Goodman
Joseph Chester
John Charles Ferguson

REPRESENTATION

Claimant, Barry Hines ("Claimant"), appeared pro se.

Respondent, Albert Palmiere, III ("Palmiere"), appeared pro se.

Respondent, Steven Goodman ("Goodman"), appeared pro se.

Respondent, Joseph Chester ("Chester"), appeared pro se.

Respondent, John Charles Ferguson ("Ferguson"), appeared pro se.

CASE INFORMATION

Statement of Claim filed: October 15, 1993.

Claimant's Submission Agreement signed on: October 11, 1993.

Statement of Answer filed by Respondent, Palmiere, on: December 20, 1993.
Respondent, Palmiere's Submission Agreement signed on: December 23, 1993.

Statement of Answer filed by Respondent, Goodman, on: December 20, 1993.
Respondent, Goodman's Submission Agreement signed on: December 23, 1993.

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Statement of Answer filed by Respondent, Chester, on: December 20, 1993.
Respondent, Chester's Submission Agreement signed on: December 22, 1993.

Statement of Answer filed by Respondent, Ferguson, on: December 20, 1993.
Respondent, Ferguson's Submission Agreement signed on: January 20, 1994.

HEARING INFORMATION

Hearing Date/Session: December 2, 1994 - 1 Session

Hearing Location: Westin William Penn, 530 William Penn Place, Pittsburgh, PA

CASE SUMMARY

Claimant stated he is an inexperienced investor. He alleged Respondents utilized high pressure sales tactics to induce him to purchase various stocks, beginning in August 1992. Over the course of a year, Claimant stated Palmiere recommended certain risky purchases but sent Claimant very little information about his investments. Claimant maintained his monthly statements contained no information about his account and when he questioned Palmiere, the response was that the company had computer problems but that Claimant could get the information he wanted over the phone. However, Claimant explained his calls were never returned. When he learned his stock values had drastically declined, Claimant said he questioned all Respondents who stated they saw no need to be concerned. Despite this advice, Claimant requested Respondents sell certain stocks and while this was done, it wasn't done in a timely fashion and cause further losses to Claimant. Claimant originally named Hibbard Brown & Co., Inc. in his claim but the case did not proceed against the company because it declared bankruptcy on October 25, 1994.

Respondents defended by stating Claimant was at all times provided with full and fair presentation of investment merits and risks associated with each purchase recommendation. Furthermore, maintained Respondents, Claimant was provided with written confirmation and specific, informative, complete account statements. Respondents acknowledged that computer problems prevented Hibbard Brown & Co. from supplying portfolio valuations until the Summer of 1993. However, Respondents stated that despite this, Claimant did not express concern over four account statements forwarded to him in a nine-month period and also made two additional purchases. In sum, Respondents stated the claim has no merit.

RELIEF REQUESTED

Claimant requested \$3,079.81 plus interest as well as punitive damages.

Respondents requested the claim be dismissed in its entirety.

OTHER ISSUES CONSIDERED & DECIDED

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

AWARD

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

1. Respondents Palmiere, Goodman, Chester and Ferguson are jointly and severally liable to claimant in the amount of **THREE THOUSAND AND SEVENTY-NINE DOLLARS and EIGHTY ONE CENTS (\$3,079.81)** plus interest at the rate of 6% per annum from the date of this award until paid.
2. The request for punitive damages is denied.
3. Respondents, jointly and severally, shall bear all costs and forum fees.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed:

Non-refundable filing fee:	\$ 50.00
Hearing Session Deposit: (\$100.00 x 1 session)	<u>\$100.00</u>
Total Fees:	<u>\$150.00</u>

1. Claimant paid \$125.00 and is due a refund of \$125.00.
2. Respondent owes \$150.00 to the NASD.

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

Concurring Arbitrators' Signatures
Name

Public/~~Industry~~

A. Ralph Ellis
A. Ralph Ellis, Esq.

February 7, 1995

NASD Date of Decision: February 7, 1995