

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Steven L. and Eileen A. Hartman

93-04681

Name of Respondents

Linsco/Private Ledger Corp.
Erwin Marine

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on November 9, 1993, Claimants Steven L. and Eileen A. Hartman, who appeared Pro Se, alleged that Respondents Linsco/Private Ledger Corp. and Erwin Marine ("Marine") advised them to purchase an unsuitable investment and misrepresented the investment to them. The Claimants further alleged that based on the advice of their financial adviser, Respondent Marine, they made several purchases of Commonwealth Equity Trust ("Commonwealth") between July 12, 1984 and April 15, 1986. The Claimants contended that in all cases the purchase price was \$12.00 per share but by 1993 the share value had decreased to \$1.50 per share and was described in their account statement as an illiquid asset. Claimants further contended that Respondent Marine never explained, prior to their purchase of Commonwealth shares, that these shares would or could become illiquid at some point in the future. Claimants alleged that had they understood this, they would have selected another investment. Claimant further alleged that by June, 1993 the value of the investment in question had decreased to 37.5 cents per share. Claimants contended that they not only have lost the bulk of their principal but also have lost the growth they could have received in another investment. Claimants alleged that they did not receive offering circulars for their investment and further alleged that Respondents handled their account unprofessionally. Claimants alleged that during 1989 there existed a secondary market for their shares and had Respondent Marine properly served as their investment advisor, they could have sold their shares and lost only 10% of their investment. As a result of the above, Claimants alleged that they have suffered damages for which the Respondents should be held liable.

Respondents Linsco/Private Ledger Corp. and Erwin Marine, through their in-house representatives, Stephanie L. Brown and David J. Freniere, Boston, Massachusetts, maintained

that the Claimants have no substantive claim against them. Respondents further maintained that the Claimants completed investment applications for their purchases of Commonwealth, and in doing so they acknowledged on the application that they had received offering circulars which addressed investment risks, dilution of shares, market for shares and valuation of shares. Furthermore, Respondents contended that the offering circulars and annual reports clearly stated that no independent market existed for the trust shares and that shares could only be sold through certain brokers/dealers by crossing orders from sellers and buyers. Respondents further contended that Claimants never indicated that they needed to have liquidity in their investments but instead stated that their investment objective was long term financial growth. As a result of the above, Respondents contended that they should not be held liable in this matter.

RELIEF REQUESTED

Claimants Steven L. and Eileen A. Hartman requested \$10,000.00 in actual damages.

Respondents Linsco/Private Ledger Corp. and Erwin Marine requested that the claims of the Claimants be dismissed and that they be awarded costs and attorney's fees.

AWARD

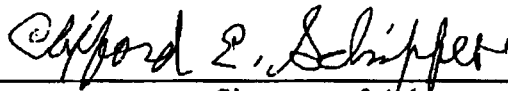
Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Clifford Schiffer, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on October 6, 1993 and by the Respondents on February 8, 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. The claims of the Claimants Steven L. and Eileen A. Hartman against Respondents Linsco/Private Ledger Corp. and Erwin Marine are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. 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, **CLIFFORD E. SCHIFFER**, 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 "Clifford E. Schiffer", is written over a horizontal line.

Signature of Arbitrator

DATE OF DECISION:

November 29, 1994

