

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Robert and Ann N. Scherr

93-04980

Name of Respondent

First Montauk Securities Corporation

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on December 2, 1993, Claimants Robert & Ann N. Scherr, who appeared Pro Se, alleged that Respondent First Montauk Securities Corporation, through its registered representative, Eric Leibowitz, misrepresented Gratiem Resources stock to them, telling them there was no risk because the assets were mined and standing in huge stockpiles waiting to be sold, which was a total fabrication. The Claimants contended that they relied on Mr. Leibowitz's representation concerning the safety of the investment, and that therefore the Respondent should be held liable for the damages they have suffered.

Respondent First Montauk Securities Corporation, through its in house counsel, Robert Rabinowitz, Esq., maintained that neither First Montauk Securities Corporation nor Eric Leibowitz made any misrepresentations regarding the potential increase of the value of Gratiem stock, nor guaranteed Claimants against loss in this investment. The Respondent contended that it committed no wrongdoing, and therefore, the claims against it should be dismissed.

RELIEF REQUESTED

Claimants Robert & Ann N. Scherr requested \$2,236.(X) in actual damages, plus interest and costs.

Respondent First Montauk Securities Corporation requested that the claims of the Claimants be dismissed.

AWARD

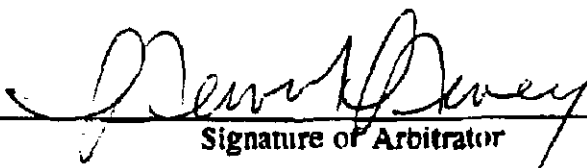
Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Lewis J. Levey, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on November 22, 1993 and by the Respondent on February 4, 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 Robert & Ann N. Scherr against Respondent First Montauk Securities Corporation are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. The \$50.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants shall be retained by the NASD, Inc.

AFFIRMATION

I, LEWIS J. LEVEY, 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: August 31, 1994