

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Robert L. Secrist

93-05122

Name of Respondents

Peter M. Harrington
Harrington Securities Corporation

REPRESENTATION

For Claimant Robert L. Secrist appeared Michael A. Brady, Esq., Hagerty & Brady, Buffalo, New York.

For Respondents Harrington Securities Corporation ("Harrington Securities") and Peter M. Harrington ("Harrington") appeared Jeffrey Sellers, Esq., Silverberg, Yood, Sellers & McGorry, Buffalo, New York.

CASE INFORMATION

The Statement of Claim was filed on December 7, 1993.
Claimant's Submission Agreement was executed on November 29, 1993.

Respondents' filed a Joint Statement of Answer which was filed on January 6, 1994. Peter M. Harrington executed a Submission Agreement on behalf of himself and Harrington Securities on January 20, 1994.

HEARING INFORMATION

Pre-Hearing Dates:	November 14, 1994	-	One Session
	April 3, 1995	-	One Session

Hearing Date/ Sessions:	June 21, 1995	-	Two Sessions
	June 22, 1995	-	Two Sessions
	July 31, 1995	-	One Session

The hearing was held at the Holiday Inn located in Buffalo, New York.

CASE SUMMARY

Claimant alleged that his investment portfolio was under the control of Respondent Harrington Securities Corporation and Peter Harrington acted as claimant's broker and investment advisor. Claimant's entire portfolio allegedly was comprised of two individual retirement accounts and one individual investment account. Claimant also alleged that due to the fact that he has been beset by various illnesses he was required to relinquish control of his financial matters to one or the other of his sons, Robert Secrist and Peter Secrist. Further, Claimant stated that he provided general power of attorney to his son, Peter. On or about April 23, 1993, Peter Secrist allegedly granted discretionary authority to respondents with the understanding that respondent Harrington would manage claimant Secrist's portfolio conservatively, responsibly, and with special attention towards claimant's individual needs for income and preservation of capital.

In April of 1993, there was allegedly a total asset value of approximately \$452,000.00 under management from the three investment accounts. Claimant alleged that immediately upon assuming discretionary control over claimant's portfolio, respondent Harrington commenced a conscious and systematic program of excessive trading in the portfolio accounts in order to generate huge commissions, decreasing the asset value of the portfolio by over \$100,000.00 in four months. Further, claimant alleged that in the course of fraudulently churning claimant's investment and retirement accounts, respondents purchased investments which were wholly unsuitable for claimant, posing significant risks of capital loss and did not provide a secure source of retirement income.

It was also alleged by claimant that respondent Harrington Securities violated its obligation to claimant as to all accounts in failing to adequately and properly supervise Peter Harrington. Further, Claimant alleged that respondents violated their fiduciary obligations due to claimants, violated federal and state securities laws, and violated the rules and regulations of the NASD and NYSE.

Respondents denied all allegations of wrongdoing asserted against them by claimant. Respondents maintained that upon claimant opening the three accounts with Harrington Securities, claimant stated his investment objectives as income and safety. Respondents further maintained that on or about the 9th day of January, 1992, Peter Secrist presented respondents with a Power of Attorney authorizing him to assume complete and total control of claimant's accounts. Respondents maintained that they had no discretionary authority and exercised no discretion over the accounts and that Peter Secrist dictated and controlled all transactions that occurred in the accounts.

It was also maintained by the Respondents that a second Power of Attorney authorizing Peter Secrist and Robert Secrist to control and direct the activity in their father's accounts was presented and that the sons proceeded to control the accounts maintained by their father and dictated and controlled all trades and transactions occurring in the accounts. Further, respondents received a revocation of the Power of Attorney which had been given to son Robert

Secrist and expanded the powers given to Peter Secrist. Respondents contended that the only trades and transactions which are complained of occurred subsequent to the elimination of Robert Secrist as Attorney-In-Fact and the expansion of the powers of Peter Secrist.

Respondents also maintained that on several occasions Respondent cautioned Peter Secrist that it was inappropriate to trade the account in the manner in which it was being traded but that Peter Secrist assured Harrington that he knew what he was doing and that his actions were in accordance with his and his father's objectives. Further, Respondents maintained that on or about August 18, 1993, Peter Secrist closed the accounts and transferred them to another firm.

RELIEF REQUESTED

Claimant requested the arbitrators award the following damages in accordance with provisions of applicable statutes, rules and regulations and case law:

1. As to Dr. Secrist's three investment accounts, a sum equal to the loss of equity in the accounts plus an additional sum equal to the rate of return which would have been earned if Respondents' had not liquidated the original portfolio, and reimbursement of commissions and trading expenses in the approximate amount of \$200,000.00.
2. Punitive damages as a result of Respondents' fraudulent conduct.
3. Attorneys' fees incurred in prosecuting Claimant's case.
4. Such further relief as the Arbitrators deem just and proper.

Respondents requested an award from the panel as follows:

1. Grant an award dismissing the Statement of Claim in the within proceeding, or in the alternative;
2. Directing that Robert Secrist, the son of Robert L. Secrist, reimburse, indemnify, and hold respondents harmless from any costs, expenses or liabilities incurred herein;
3. Directing that Peter Secrist, the son of Robert L. Secrist, reimburse, indemnify, and hold respondents harmless from any costs, expenses or liabilities incurred herein; and
4. For such other, further and different relief as the panel deems just and proper.

OTHER ISSUES CONSIDERED & DECIDED

The parties entered into a stipulation which was filed with the NASD dated August 31, 1994 whereby the parties stipulated that during the period from approximately April, 1993, through

August, 1993, the actions of Peter Secrist, pursuant to the Powers of Attorney given to him by Dr. Robert Secrist, in relation to the accounts Dr. Robert Secrist maintained with Harrington Securities Corp. and Peter Harrington are imputed to his principal Dr. Robert Secrist and that Robert Secrist, son of Robert L. Secrist would be made available to testify at any arbitration proceeding either personally or be telephone conference call.

AWARD

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

1. Based on the fraudulent conduct of respondents Peter Harrington and Harrington Securities Corporation including unauthorized trading and churning, respondents be and hereby are jointly liable and shall pay to the claimant the sum of \$101,199.00.
2. Respondents Peter Harrington and Harrington Securities Corporation be and hereby are liable and shall pay interest at the statutory rate from the date of decision until paid in full.
3. All claims for punitive damages be and hereby are denied.
4. Respondents Peter Harrington and Harrington Securities Corporation be and hereby are liable and shall pay claimant the sum of \$20,000.00 representing attorney's fees incurred in prosecuting this claim.
5. Each party shall bear their respective costs.
6. All other claims be and hereby are denied.

FORUM FEES

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

2 pre-hearing sessions X \$300.00 = \$600.00

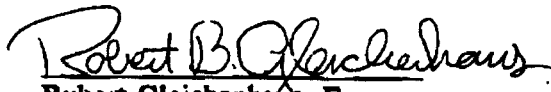
5 sessions X \$750.00 = \$3,750.00 minus hearing session deposit of \$750.00 = \$3,000.00

TOTAL OUTSTANDING FEES = \$3,600.00

Respondent Peter Harrington be and hereby is liable and shall pay to the NASD the sum of \$3,600.00 representing forum fees assessed by the arbitrators.

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

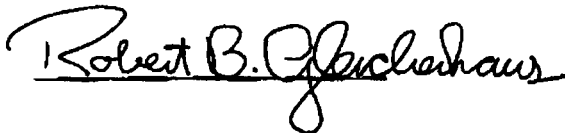
Concurring Arbitrators' Signatures
Name


Robert Gleichenhau, Esq.
Public Arbitrator - Chairperson

Roy R. Neureuter
Industry Arbitrator

Vincent J. Muffoletto
Public Arbitrator

I, Robert Gleichenhau, do hereby affirm that this is my decision in the above-captioned matter.



Date of Decision: September 8, 1995