

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

James Sheehan

94-00815

Name of Respondent

Michael J. Rice

Representation of Parties

Claimant James Sheehan appeared at the hearing and was represented Pro Se.

Respondent Michael Rice did not appear at the hearing but was present by speaker phone and was present Pro Se.

Case Information

Claimant's Statement of Claim was filed on March 2, 1994. Claimant's Submission Agreement was signed on February 22, 1994.

Respondent's Statement of Answer was filed on August 10, 1994. Respondent's Submission Agreement was signed on August 8, 1994.

Hearing Information

The hearing was held on March 23, 1995 in Minneapolis, Minnesota for one (1) session.

Case Summary

Claimant James Sheehan ("Sheehan") alleged in his Statement of Claim that Respondent Michael Rice ("Rice") is liable for the following: omission of facts, breach of fiduciary duty, suitability, misrepresentation, dishonest and or unethical practice, over the counter sale and purchase transaction in corporate securities with public customer at prices which were not fair and reasonable. Claimant further alleged that Rice recommended and sold the following penny stocks: Anvil and Compuflight.

Respondent, in his Statement of Answer, denied all allegations of wrongdoing. Respondent Rice stated all trades were fully disclosed and that prior authorization was received. Rice also stated that the recommendations were suitable and that the stocks were within Sheehan's risk parameters.

Relief Requested

Claimant requested damages in the amount of \$26,377.51.

Respondent requested that the Statement of Claim be dismissed and that the costs be assessed against Claimant.

Other Issues Considered and Decided

The parties present at the hearing have agreed that the Award in this matter may be executed by counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the award while the original remains on file with the NASD.

Securities Settlement Corporation was initially a Respondent but subsequently was removed as a party to the arbitration.

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. The Respondent Michael Rice shall be and hereby is liable for, and shall pay to the Claimant, damages in the sum of One Thousand Dollars (\$1000.00);
2. Each of the parties shall bear their own costs and expenses other than those specifically enumerated for under Forum Fees.

Forum Fees

Pursuant to Section 43(c) of the NASD Code of Arbitration Procedure, the following forum fees are assessed:

one hearing session X \$400 = net \$400 due to the NASD.

Pursuant to Section 43(c) of the Code of Arbitration, the NASD shall retain the nonrefundable filing fee in the amount of \$100 previously paid to the NASD by the Claimant.

The forum fees in the amount of \$400 are assessed against Claimant in the sum of \$200 and against Respondent in the sum of \$200. The forum fees assessed by the panel are payable to the National Association of Securities Dealers, Inc.

By The Arbitration Panel:

Dated:

3-23-95

s/s Robert R. Biglow
Robert R. Biglow, Esq.
Presiding, Public Arbitrator

3-23-95

s/s Piedad A. Bernikow*
Piedad A. Bernikow, Esq.
Public Arbitrator

3-23-95

s/s John Robert Kelly
John Robert Kelly
Industry Arbitrator

Date Award Served By The NASD: 3-24-95

* Dissent for Dismissal