

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Paul C. Ciernia

94-01123

Name of Respondent(s)

Hibbard Brown & Company, Inc. (Bankrupt)  
Robert E. Parker, Jr.

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CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on March 23, 1994, claimant Paul C. Ciernia, who appeared Pro Se alleged that on December 18, 1991 his broker respondent Robert Parker ("Parker") of Hibbard Brown & Company, Inc., ("Hibbard") sold him 2,500 shares of Officeland Inc., ("OFCL") at \$1 3/8 per share. Claimant further alleged that in order for respondent to make the sale respondent made inaccurate, false and misleading statements. Claimant also alleged that respondent failed to tell him that OFCL was very high risk and was trading at it's 52 week high. Claimant also averred that the stock value decreased through the end of 1992 and he eventually sold it for \$0.945 per share, after the reverse split, at the end of 1993. Claimant maintained that he incurred financial losses because of respondents untrue statements.

Respondents Hibbard Brown & Company, Inc. and Robert E. Parker, ("Respondents") by their representative and in-house counsel Steven B. Caruso, Esq., maintained that on or about May 22, 1991 the claimant established account number 416-05206 with the Palm Beach Gardens, Florida branch office of Hibbard Brown and Parker. Respondents further maintained that based on claimant's existing investment objectives, he was determined to be suitable for equity investments. Respondents also maintained that between May 1991 and February 1994, a number of investment recommendations were made to claimant and those he chose to pursue were effectuated with his prior knowledge, consent and permission. Respondents contended that the investment recommendation presented to claimant must be viewed in the context of the information available to all parties at the time of purchase (December 18, 1991), rather than through 20/20 hindsight two and a half years later.

Respondents further contended that the recommendation of Officeland, Inc., was consistent with claimant's investment objectives and with his prior and subsequent purchases effected through respondents. Respondents also contended that claimant improperly seeks compensation for the losses he sustained as a result of the market performance of one security in his investment portfolio. Respondents contended that claimant attempted to place them in the role as guarantors rather than advisers. Respondents further maintained that the claims should be dismissed in their entirety.

**RELIEF REQUESTED**

Claimant Paul C. Ciernia requested \$2,500.00 in actual damages.

Respondents Hibbard Brown & Company, Inc. and Robert Parker requested that the claim of claimant Paul C. Ciernia be dismissed/barred in it's entirety and that they be awarded other relief as may be deemed appropriate.

**OTHER ISSUES CONSIDERED AND DECIDED**

After filing a Statement of Answer but prior to the decision on the merits, Respondent Hibbard Brown & Company, Inc., filed a bankruptcy petition and hence is protected by the automatic stay.

The Arbitrator allowed claimant Paul C. Cierna and Robert Parker, the opportunity to submit additional documentation by October 31, 1996. The parties failed to provide any additional submissions.

**AWARD**

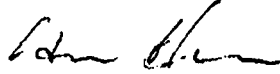
Pursuant to Section 10302 of the NASD Regulation, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Herbert Neuer, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the claimant Paul C. Ciernia on March 14, 1994 and by respondent Robert E. Parker, Jr. on June 16, 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 claim of claimant Paul C. Ciernia against respondent Robert E. Parker, Jr., is dismissed in it's 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 Claimant shall be retained by the NASD Regulation, Inc.
4. All other relief requests are denied.

**AFFIRMATION**

I, **Herbert Neuer, 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.



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Signature of Arbitrator

DATE OF DECISION:      December 30, 1996