

**N.A.S.D. AWARD**

**NATIONAL ASSOCIATION OF SECURITIES DEALERS**

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In the Matter of the Arbitration Between

Name of Claimants

George Stutsky & Joseph Russo JTWROS

94-01479

Name of Respondents

M.H. Meyerson & Co., Inc.  
Thomas Herchakowski  
Leonard Parker  
Eric J. Logan

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**CASE SUMMARY**

In a claim filed with the National Association of Securities Dealers, Inc. on April 19, 1994, Claimants George Stutsky and Joseph Russo, who appeared Pro Se, alleged that on or about January 27, 1994 they expressed an interest to open a joint account and place an order for 1000 shares of Teletek, Inc. stock with Respondent Thomas Herchakowski ("Herchakowski"), a broker at Respondent M.H. Meyerson & Co., Inc. ("M.H. Meyerson"). Claimants alleged they told Respondent Herchakowski to send them a bill and they would "expedite immediately". Claimants further alleged that Respondent Herchakowski erroneously placed an order for 500 shares of Teletek, Inc. stock in Claimant Russo's personal account, and that this erroneous order was canceled. Claimants contended that on February 10, 1994 they received a call from Respondent Herchakowski asking for the funds for the 1000 shares of Teletek, Inc. stock, but that they had not yet received the forms to sign or the bill. Claimants contended that they sent out the check later in the day on February 10, 1994. Claimants contended that Respondent Herchakowski sold the 1000 shares of Teletek, Inc. stock they bought for the joint account at a loss because their check did not arrive in time. Claimants further contended that they wrote a letter of complaint to Respondent Eric J. Logan ("Logan"), branch manager at Respondent M.H. Meyerson, and that he never wrote back, called to investigate or acknowledged the complaint in any way. Claimants alleged that Respondent

Leonard Parker, compliance officer at Respondent M.H. Meyerson, never contacted them to investigate their version of their complaint. Claimants further alleged that Respondent Herchakowski never verbally advised them that \$3,658.00 was due on February 4, 1994, nor did he advise Claimants that their account was placed on an extension and could be sold out if the funds were not received in time. As a result of the above, Claimants contended that they have suffered damages for which the Respondents should be held liable.

Respondents M. H. Meyerson & Co., Inc., Thomas Herchakowski, Eric J. Logan and Leonard Parker, through Respondent M. H. Meyerson's in-house representative Leonard Parker, maintained that Claimants opened a joint account with Respondent M. H. Meyerson and placed an order for 1,000 shares of Teletek, Inc. stock. Respondents further maintained that Claimants were advised of the amount due and that payment was due on February 4, 1994. Respondents contended that Claimants received one extension for payment until February 15, 1994, and were advised of the extension deadline through a mailgram. Respondents further contended that the shares in question were sold-out, since Claimants' check was received two days after the sell-out date. Respondent Herchakowski maintained that he informed Claimant Russo on two separate occasions of the formal time frame for the transaction in question. Respondent Logan contended that he received a fax copy of a complaint by Claimant Russo against Respondent Herchakowski, and that after reading this letter he gave it to Respondent Parker so he could investigate the complaint and respond. As a result of the above, Respondents maintained that they should not be held liable in this matter.

#### **RELIEF REQUESTED**

Claimants George Stutsky and Joseph Russo requested \$734.50 in actual damages, treble damages, plus the option and/or right to purchase 1000 shares of Teletek, Inc. common stock at the original price of \$3,658.00.

Respondents M.H. Meyerson & Co., Inc., Thomas Herchakowski, Eric J. Logan and Leonard Parker requested that the Claimants' Statement of Claim be dismissed in its entirety.

#### **AWARD**

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single public arbitrator, Arnold Limsky, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on April 12, 1994, and by Respondents M. H. Meyerson & Co., Inc., Thomas Herchakowski, Eric

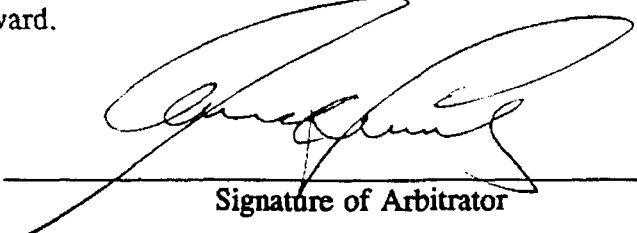
J. Logan and Leonard Parker on June 29, 1994.

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. Respondent M.H. Meyerson & Co., Inc. is liable and shall pay to Claimants George Stutsky and Joseph Russo \$367.00 in actual damages.
2. The claims of Claimants George Stutsky and Joseph Russo against Respondents Thomas Herchakowski, Eric J. Logan and Leonard Parker are dismissed in their entirety.
3. Claimants George Stutsky and Joseph Russo's claim for treble damages is denied.
4. The parties shall bear their respective costs.
5. 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. Respondent M. H. Meyerson & Co. Inc. is liable and shall pay to Claimants George Stutsky and Joseph Russo \$75.00 as partial reimbursement of the filing fee.

#### AFFIRMATION

I, **ARNOLD LIMSKY**, do hereby affirm upon my oath of 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:**      October 27, 1994

STATE OF:

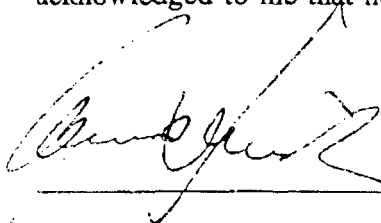
New Jersey

ss:

COUNTY OF:

Monmouth

On this 12<sup>th</sup> day of October 19 94, before me personally appeared  
ARNOLD LIMSKY to me known and known before me to be the individual  
described in and who executed the foregoing instrument and he duly  
acknowledged to me that he executed the same.



Signed + Sworn before me this 12<sup>th</sup> day of October 1994



CHRISTIAN R. WIDMANN  
NOTARY PUBLIC OF NEW JERSEY  
My Commission Expires Oct. 31, 1994

