

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimants

Scott E. and Beth A. Schoenborn

94-01844

Name of Respondents

Paulson Investment Company, Inc.

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CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on May 17, 1994, Claimants Scott E. and Beth A. Schoenborn, who appeared Pro Se, alleged that Jeff Pieper, a broker at Respondent Paulson Investment Company, Inc., purchased 1000 shares of International Fast Food stock for their IRA accounts without their knowledge or authorization. Claimants further alleged that Jeff Pieper was terminated from Respondent for making unauthorized trades. Claimants contended that Respondent failed to supervise Jeff Pieper. In their Response to Respondent's Statement of Answer, Claimants further contended that they have filed their claim within a reasonable time frame. As a result of the above, Claimants alleged that they have suffered damages for which the Respondent should be held liable.

Respondent Paulson Investment Company, Inc., through its representative Larry J. Henning, maintained that there is no proof that the trade in question was unauthorized. Respondent further maintained that Jeff Pieper was not terminated for unauthorized trading, and that Claimants' claim is the only unauthorized trade allegation against Jeff Pieper. Respondent contended that Claimants accepted the risk of owning the stock in question and of mitigating any future losses when they spoke with Jeff Pieper and decided to hold on to this stock. Respondent further contended that if the value of the stock in question went up, Claimants would have taken the profit, but since the value of the stock in question went down, now they want someone else to take the loss. Respondent maintained that Claimants' desire to protect Jeff Pieper from getting in trouble with his superiors is not a

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valid excuse for delaying their attempt to correct any problem. As a result of the above, Respondent contended that it should not be held liable in this matter.

### **RELIEF REQUESTED**

Claimants Scott E. and Beth A. Schoenborn requested \$4,885.00 in actual damages, and \$1,000.00 in punitive damages.

Respondent Paulson Investment Company, Inc. requested that the Claimant's 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, O. Meredith Wilson, Jr., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on May 7, 1994 and by the Respondent on July 7, 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 Paulson Investment Company, Inc. is liable and shall pay to Claimants Scott E. and Beth A. Schoenborn \$4,885.00 in actual damages.
2. Respondent Paulson Investment Company, Inc. is liable and shall pay to Claimants Scott E. and Beth A. Schoenborn simple interest at the rate of 9% per annum on \$10,010.00 from February 12, 1993 to the date of payment of the award.
3. The Claimants' claim for punitive damages is denied.
4. 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 Paulson Investment Company, Inc. is liable and shall pay to Claimants Scott E. and Beth A. Schoenborn \$150.00 as reimbursement of the filing fee.

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**AFFIRMATION**

I, **O. MEREDITH WILSON, JR.**, 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.

O. Meredith Wilson Jr.

Signature of Arbitrator

**DATE OF DECISION:**      October 31, 1994