

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

**NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.**

In the matter of the Arbitration Between

**Name of Claimant**

Norman Vierlink

v.

NASD Arbitration  
No. 95-00595

**Name of Respondents**

Thomas Lee Nelson and Titan/Value Equities Group, Inc.

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**REPRESENTATION**

For Claimant: Richard Sacks  
Investors Recovery Service  
Novato, California

For Respondent: G. Thomas Fleming III, Esq. and Michael A. Amiri, Esq.,  
Jones, Bell, Simpson & Abbott  
Los Angeles, California

**CASE INFORMATION**

Statement of Claim filed: February 6, 1995

Claimant's Submission Agreement signed: October 12, 1994

Joint Statement of Answer and Counterclaim filed by Respondent: March 29, 1995

Joint Amended Answer filed by Respondents: July 26, 1995

Respondent Thomas Lee Nelson's Submission Agreement signed: March 22, 1995

Respondent Titan/Value Equities Group, Inc.'s Submission Agreement signed: February 27, 1995

**HEARING INFORMATION**

Pre-Hearing Conference Dates / Sessions: November 13, 1995 (1 session)  
December 6, 1995 (1 session)  
January 12, 1995 (1 session)

Hearing Dates / Sessions:     January 22, 1996 (2 sessions)  
   January 23, 1996 (2 sessions)  
   January 26, 1996 (2 sessions)

Hearing Location:     Los Angeles, California

### **CASE SUMMARY**

On June 9, 1995, the Director of Arbitration determined that all allegations of fraudulent concealment relating to investments made prior to February 6, 1989 were eligible for NASD arbitration for the allegations that fall within the six year period beginning February 6, 1989. The director also determined that all allegations regarding acts occurring prior to February 6, 1989 were ineligible for NASD arbitration.

Claimant's statement of claim alleged that Respondents selected unsuitable investments in Commonwealth Equity Trust, and that Respondents committed fraud, negligence, breach of contract and breach of fiduciary duty. Claimant further alleged that Respondents intentionally concealed and misrepresented the risks of the investments. Claimant also alleged that Respondents failed to advise Claimant that his investment in Commonwealth Equity Trust was experiencing severe financial difficulties until after Commonwealth Equity Trust filed for bankruptcy protection.

Respondents denied all of the allegations of the Statement of Claim as to any purported basis of liability set forth therein.

### **RELIEF REQUESTED**

Claimant requested an award of \$69,000.00 together with appropriate interest thereon. Claimant also requested reimbursement for costs of suit. Claimant further requested exemplary damages.

Respondents did not request any specific relief.

### **AWARD**

1.     The Arbitrators find in favor of Respondents. All of the Claimant's claims are denied in their entirety.
2.     The Claimant's request for exemplary damages is denied in its entirety.
3.     The parties shall each bear their respective costs, including attorney's fees.

### FORUM FEES

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

Three (3) pre-hearing sessions @ \$300.00/session	=	\$ 900.00
<u>Six (6) hearing sessions @ \$500.00/session</u>	=	<u>\$3,000.00</u>
Total forum fees	=	\$3,900.00
 Claimant's one-half share	=	 \$1,950.00
<u>Credit for hearing session deposit</u>	=	<u>\$ 500.00</u>
Claimant's Balance Due	=	\$1,450.00
 <u>Respondents' one-half share</u>	=	 <u>\$1,950.00</u>
Respondents' Balance Due	=	\$1,950.00

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

### ARBITRATORS

Name .....	Public / Industry
Rochelle M. Lindsey, Esq.	Public Arbitrator
William C. Richardson	Industry Arbitrator
Irving Porush	Public Arbitrator

#### Concurring Arbitrators' Signatures



\_\_\_\_\_  
William C. Richardson

\_\_\_\_\_  
Irving Porush

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Rochelle M. Lindsey, Esq.

Date of Decision: \_\_\_\_\_

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 Respondents' one-half share	=	\$1,950.00
Respondents' Balance Due	=	\$1,950.00

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William C. Richardson	Industry Arbitrator
Irving Porush	Public Arbitrator

**Concurring Arbitrators' Signatures**

William C. Richardson

Irving Porush

Rochelle M. Lindsey, Esq.

Date of Decision:

Feb 20, 1996

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Date of Decision: \_\_\_\_\_