

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

---

In the Matter of the Arbitration Between

Name of Claimant

Roger Reinhart

95-01289

Name of Respondents

Mark A. Halperin  
South Richmond Securities, Inc.  
Michael Montelli

---

REPRESENTATION

Claimant Roger Reinhart ("Claimant") appeared pro se

Respondent Mark A. Halperin ("Halperin") appeared pro se

Respondent South Richmond Securities, Inc. ("SRSI") did not appear at the hearing

Respondent Michael Montelli ("Montelli") was represented by Howard S. Eilen, Esq., Lehman & Eilen, Uniondale, NY

CASE INFORMATION

The Statement of Claim was filed March 14, 1995

The Amended Statement of Claim was filed February 20, 1996

Claimant's Uniform Submission Agreement was signed March 6, 1995

Halperin's Answer was filed May 8, 1995

Halperin did not execute a Uniform Submission Agreement

SRSI's Answer and Cross Claim was filed an Answer April 13, 1995

SRSI's Answer to Cross Claim was filed May 11, 1995

SRSI's Uniform Submission Agreement was signed April 12, 1995

Montelli's Answer to Statement of Claim and Cross Claim was filed May 8, 1995

Montelli did not execute a Uniform Submission Agreement

HEARING INFORMATION

Hearing date/sessions: March 4, 1996/one session

Hearing location: NASD District Office  
Philadelphia, PA

CASE SUMMARY

Claimant alleged, among other things, that Halperin and Montelli, employed by SRSI (collectively "Respondents"), misrepresented the risk associated with stocks in Sector Associates LTD ("Sector"), International Business Schools ("IBS"), Telmed and ACCI. Claimant alleged that Respondents induced Claimant to authorize unsuitable transactions through a series of misrepresentations, omissions and high-pressure tactics. Claimant alleged that Respondents ignored Claimant's investment objectives of low-risk, long-term growth. Claimant alleged that SRSI engaged in churning Claimant's account to obtain additional revenues for SRSI. Claimant alleged that Claimant was an unsophisticated investor and he relied on the information provided by Respondents. Claimant alleged that Respondents failed to execute sales that Claimant authorized. Claimant alleged that Respondents breached the contractual agreement that existed between Claimant and SRSI. Claimant alleged that he was damaged by the actions of Respondents.

SRSI, in its Answer, Cross Claim, and Answer to Cross Claim denied all allegations of wrong-doing. SRSI maintained that all trading in Claimant's account was authorized. SRSI maintained that Claimant made all investment decisions relative to Claimant's account. SRSI maintained that all investment recommendations were suitable for Claimant's investment objectives. SRSI maintained that Claimant ratified all transactions, and Claimant is barred from seeking recovery. SRSI maintained that any losses suffered by Claimant were the result of Claimant's own activities and market conditions. In the alternative, SRSI alleged that in the event that Claimant obtains an award against SRSI, that an equivalent amount be assessed against Halperin and Montelli, in equal shares, in favor of SRSI.

Halperin denied all allegations of wrong-doing. Halperin maintained that Claimant made all investment decisions and authorized all transactions in Claimant's accounts. Halperin denied any churning in Claimant's account. Halperin maintained that only one stock was sold during the time that Halperin managed Claimant's account. Halperin maintained that Reinhart never voiced any complaint or displeasure regarding Halperin's management of Claimant's account. Halperin maintained that he should not be held liable for any losses suffered by Claimant.

Montelli denied all allegations of wrong-doing in the Cross Claim of SRSI. Montelli maintained that he assumed management of Claimant's account when Halperin left employment at SRSI. Montelli maintained that SRSI be held liable for any losses suffered by Claimant.

### RELIEF REQUESTED

Claimant requested relief of damages in the amount of \$20,691.00 plus pre-award interest of \$3,004.00; costs; and punitive damages.

SRSI requests that the Statement of Claim be denied; that an award be entered against Halperin and Montelli, in equal shares, for the full amount of any award granted Claimant; that the Cross Claim of Montelli be dismissed in its entirety; plus all costs, disbursements and attorneys' fees incurred in this arbitration.

Halperin requested that he be dismissed from the Statement of Claim.

Montelli, having resolved all claims presented by Claimant prior to the hearing, requested that the Cross Claim of SRSI be dismissed in its entirety; as well as costs and attorney's fees involved in this arbitration.

### OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that a handwritten, signed Award may be entered. In this case, the parties have agreed to receive a conformed copy of the Award while the original remains on file with the NASD.

Counsel for Montelli requested that Cross Claim be dismissed since SRSI did not appear and Montelli had settled with Claimant. Arbitrator gave counsel for Montelli ten days to file a post hearing brief on that issue.

After consideration of the post hearing submission, the Arbitrator ruled that as SRSI failed to appear at the hearing to prosecute their Cross Claims, the Cross Claim submitted by SRSI against Halperin is dismissed with prejudice, and the Cross Claim submitted by SRSI against Montelli is dismissed without prejudice.

### AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing and post hearing submissions, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. SRSI is liable to and shall pay to Claimant the sum of \$20,195.00, inclusive of interest.
2. The Cross Claim submitted by Montelli against SRSI is denied.
3. Each party shall bear its own costs and expenses, except as specifically addressed herein.

4. Any and all relief not specifically addressed herein is denied.

**FORUM FEES**

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

1 session X \$300.00 = \$300.00

Forum Fees assessed against SRSI. SRSI is liable to and shall reimburse Claimant for the \$300.00 hearing session deposit Claimant submitted to the NASD.

Date

Arbitrator's Signature

3/28/96

James A. Jennings  
James A. Jennings, Presiding  
Public Arbitrator

Date NASD Served Decision: March 29, 1996