

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Paul C. Mason

95-02029

Name of Respondent

Hamilton Investments, Inc.

REPRESENTATION

For Claimant: Paul C. Mason ("Mason"): Robert J. Winicki, Esq., Jacksonville, Florida.

For Respondent: Hamilton Investments, Inc. ("HII"): Lawrence T. Hofmann, Esq. of Zelle & Larson, Minneapolis, Minnesota.

CASE INFORMATION

Statement of Claim filed: 4/26/1995.

Claimant's Submission Agreement signed on: 4/25/1995.

Statement of Answer filed by Respondent, HII on: 7/10/1995.

Respondent, HII's Submission Agreement signed on: 7/7/1995.

HEARING INFORMATION

On 2/12/96 and 2/13/96, in Fort Lauderdale, Florida a hearing lasting three (3) sessions was conducted.

CASE SUMMARY

Claimant asserted the lack of suitability of a NASDAQ traded new issue, Continental Savings of America Convertible Preferred, for his IRA or retirement account. Claimant also alleged that the Respondent brokerage firm failed to disclose that its customers purchased over 1.2 million shares of the 2 million issued between the date of the offering November 18, 1992 and the end of 1993. Finally, Claimant alleged that the 1993 research reports by the Respondent on

Continental Savings were materially misleading and fraudulent because they misrepresented the earnings, of Continental Savings while recommending the stock as an "aggressive buy" for growth and income.

Respondent, HII, denied that it misrepresented any information about Continental Savings and also denied that it failed to disclose its status as a market maker in Continental Savings Preferred Stock. HII denied that Continental Savings Preferred Stock was an unsuitable investment for Claimant.

RELIEF REQUESTED

Claimant, Mason, requested compensatory and punitive damages in the amount of \$500,000.00, together with interest, a reasonable attorney's fee and the costs of this claim.

Respondent, HII, requested that the Claimant receive nothing and requested reasonable attorney's fees together with other such costs as may be appropriate.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASD.

AWARD

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

1. Respondent, HII, is found liable and shall pay to the Claimant the total amount of \$30,277.88.
2. Claimant's request for punitive damages is hereby denied.
3. Claimant's request for attorney's fees is hereby denied.
4. Claimant's request for interest is hereby denied.
5. Respondent's request for costs is hereby denied.
6. Respondent's request for attorney's fees is hereby denied.

OTHER COSTS

Other than as provided below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the Panel has assessed Forum Fees in the amount of \$2,250.00 (three hearing sessions X \$750.00).

- 1) Claimant, Mason, is hereby assessed \$1,125.00 for which the NASD shall retain the \$750.00 previously deposited in partial satisfaction thereof leaving a balance due to the NASD of \$375.00 in full satisfaction thereof payable to the National Association of Securities Dealers, Inc.
- 2) Respondent, HII, is hereby assessed \$1,125.00 payable to the National Association of Securities Dealers, Inc.
- 3) The NASD shall retain the non-refundable filing fee of \$200.00 paid by the Claimant.
- 4) The NASD shall retain the session deposit of \$750.00 paid by the Claimant.

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

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Concurring Arbitrators' Signatures
Name

/s/

Myron Dunay, Esq.

Chairperson/Panelist

/s/

Evan J. Langbein, Esq.

Public/Panelist

/s/

David P. Wardwell

Industry/Panelist

March 14, 1996
Date of Decision: _____