

NASD AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Name of Claimants

Philip L. Haik, Jr.
Philip L. Haik, Jr. DDS Employee Profit Sharing Trust

and

NASD Case Number: 95-03181

Name of Respondents

Joseph Charles & Associates, Inc.
Craig Fischer

REPRESENTATION OF PARTIES

Claimants Philip L. Haik, Jr. and Philip L. Haik, Jr. DDS Employee Profit Sharing Trust were represented by Brian P. Charboneau, Esq. and David L. Haik, Esq. of Metairie, Louisiana.

Respondent Joseph Charles & Associates, Inc. was represented by Arnold Levine, Esq. of Boca Raton, Florida.

Respondent Craig Fischer did not appear and was unrepresented.

CASE INFORMATION

The Statement of Claim was filed with the National Association of Securities Dealers, Inc. ("NASD") by Claimants on or about July 3, 1995.

Claimant Philip L. Haik, Jr.'s Submission Agreement was signed on August 4, 1995.

Claimant Philip L. Haik, Jr. DDS Employee Profit Sharing Trust's Submission Agreement was signed on August 5, 1995 by Philip L. Haik, Jr., Trustee of the Philip L. Haik, Jr. DDS Employee Profit Sharing Trust.

The Statement of Answer was filed with the NASD by Respondent Joseph Charles & Associates, Inc. on or about September 27, 1995.

Respondent Joseph Charles & Associates, Inc.'s Submission Agreement was signed on October 2, 1995 by Gina Buddie, Secretary and Treasurer of Joseph Charles & Associates, Inc.

The NASD has no record that Respondent Craig Fischer filed a Statement of Answer.

The NASD has no record that Respondent Craig Fischer signed a Submission Agreement.

HEARING INFORMATION

The hearing was held on March 12, 1996 for two (2) sessions and March 13, 1996 for two (2) sessions. The hearing location was New Orleans, Louisiana.

CASE SUMMARY

Claimant Philip L. Haik, Jr. ("Haik") brought this claim individually and as Trustee for the Philip L. Haik, Jr. DDS Employee Profit Sharing Trust ("the Trust") against Respondent Craig Fischer ("Fischer"), an alleged employee of Respondent Joseph Charles & Associates, Inc. ("JCA").

Claimant alleged that, on or about February of 1994, Claimant Haik began to do business with Respondent JCA. Claimant Haik alleged that, on or about June of 1994, Respondent Fischer began working with Claimant Haik as the person who would advise Claimant on investments in securities. Claimant Haik alleged that Respondent Fischer omitted to state material facts relating to the purchase and sale of the following securities: Petro Union, Inc., Score Board, Inc., Juniper Features, Ltd., Methanex Corp., ATC II, Inc., Chester Holdings Ltd., Canton Industrial Corp., Comcentral Corp., Taseko Mines, Ltd, Sara Environmental, Inc., and Oilex, Inc. Claimant Haik asserted claims for violations of federal securities laws, violations of SEC regulations, and violations of NASD rules.

Respondent Joseph Charles & Associates, Inc. denied all liability to Claimants in its Statement of Answer. Respondent Joseph Charles & Associates, Inc. alleged that all transactions for the purchase and sale of securities were pursuant to and at the specific direction of the Claimant, upon his authorization and with his full knowledge, consent and prior approval. Respondent JCA asserted that the Claimant was accustomed to dealing in volatile, low priced securities.

RELIEF REQUESTED

Claimant requested an award of actual damages in the amount of \$148,574.19, plus \$6,359.25 in costs incurred, plus punitive damages as may be available, and the costs and expenses of bringing this arbitration including reasonable attorney's fees, interest as allowed by law, and all other relief available. Claimant further requested that the sales and purchases of securities be canceled.

Respondent Joseph Charles & Associates, Inc. requested that the Statement of Claim be dismissed in its entirety and it be awarded reasonable attorney's fees as well as the costs and disbursements

incurred in connection with this proceeding. Respondent further requested further relief as determined to be just and reasonable.

OTHER ISSUES CONSIDERED & DECIDED

Upon review of the file, the undersigned arbitrators have determined that Respondent Craig Fischer has not been properly served with the Statement of Claim pursuant to §13 and §25 of the NASD Code of Arbitration Procedure (the "Code"). The undersigned arbitrators have also determined that Respondent Craig Fischer had not received due notice of the hearing as required under §26 of the Code.

The parties have agreed to receive conformed copies of the award while the original(s) 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 Joseph Charles & Associates, Inc. is liable for and shall pay to Claimant Philip L. Haik, Jr. DDS Employee Profit Sharing Trust compensatory damages in the amount of Twenty Eight Thousand Six Hundred and Eighty Eight Dollars and No Cents (\$28,688);
2. The claims of Claimant Philip L. Haik Jr. (individually) are hereby denied with prejudice;
3. All claims for punitive damages are hereby denied with prejudice;
4. Forum fees are hereby assessed against Respondent Joseph Charles & Associates, Inc.;
5. Other than forum fees as specified below, the parties shall each bear their own costs, expenses and attorney's fees incurred in this matter; and
6. Any relief not specifically enumerated is hereby denied.

FORUM FEES

Forum fees are calculated at the rate of \$750 per hearing session. There were four (4) hearing sessions x \$750 = \$3,000 in forum fees. Pursuant to §43(b) a hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with an arbitrator, which lasts four (4) hours or less.

Pursuant to §43(c) of the NASD Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. ("NASD") shall retain the non-refundable filing fee in the amount of \$200 previously deposited with the NASD by the Claimants. The NASD shall refund the hearing session deposit in the amount of \$750 previously deposited with the NASD by the Claimants.

Respondent Joseph Charles & Associates, Inc. is assessed and shall pay the Section 45 Member Surcharge in the amount of \$350. Respondent Joseph Charles & Associates, Inc. is assessed and shall pay forum fees in the amount of \$3,000.

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

Concurring Arbitrators' Signatures

/s/ Edward J. Gay, III, Esq.
Edward J. Gay, III, Esq.
Chairperson
Public Arbitrator

March 28, 1996
Dated:

/s/ Herman Brasseaux
Herman Brasseaux
Panelist
Public Arbitrator

March 27, 1996
Dated:

/s/ Robert J. Eitel
Robert J. Eitel
Panelist
Industry Arbitrator

March 27, 1996
Dated:

For NASD use only:

Date award served on the parties: April 2, 1996