

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

John M. Harvanek, III

95-04096

Name of Respondents

Daniel C. Montano
Montano Securities Corporation
Alexander G. Montano
Ramesh D. Chillar

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on August 25, 1995 Claimant John M. Harvanek III ("Claimant"), who appeared Pro Se, alleged that he held account #923-00033 with Respondent Montano Securities Corporation ("MSC") and that in May of 1994, he attended an address by Respondent Daniel C. Montano ("D. Montano") at which he praised the American Vanguard Corporation ("AVC") and predicted a significant rise in its stock value recommending that Claimant buy shares right away. Claimant further alleged that during the address, copies of the AVC research report prepared by Respondent Alexander G. Montano ("A. Montano"), were circulated but it failed to mention any possible problems with the regulatory authorities as a result of a chemical spill. Claimant contended that Respondent Ramesh Chillar ("Chillar"), the account representative, recommended that he purchase at least 200 shares of the AVC but also failed to mention any potential liabilities due to the chemical spill. Claimant further contended that he followed the advice of the Respondents to his detriment. Claimant alleged that Respondents deliberately marked the confirmation "unsolicited" to deflect responsibility for the inappropriate advice given to him. Claimant further alleged that Respondents have failed to apprise him of all the pertinent facts, and that as a result of the above, he has suffered a loss for which the Respondents should be held liable.

Respondents Daniel C. Montano, and Montano Securities, represented by D. Montano, maintained that he was President of Montano Securities Corporation on May 9, 1994, when he spoke at a meeting with about 60-80 people in attendance and does not recall the Claimant nor does he recall speaking with him. D. Montano further maintained that he never recommended the Claimant should buy anything, but when asked what he liked, he responded that AVC was one of several companies. D. Montano contended not only did he mention the oil spill at the meeting, but that the spill was public information and for the reasons stated above, Respondent Daniel C. Montano should not be held liable.

Respondent Alexander G. Montano, who appeared Pro Se, maintained that he has never met, talked to, or done business with the Claimant. A. Montano further maintained that he wrote the AVC Research Report but that the report was truthful and accurate of the facts as they existed at the time of the writing, March 25, 1994. A. Montano contended that as a result of the above, he should not be held liable.

Respondent Ramesh Chillar, who appeared Pro Se, maintained that he attended the address which Claimant attended but did not speak to the Claimant or anyone else about AVC at the address. Chillar further maintained that Claimant called him to purchase 500 shares and that is why the ticket was marked unsolicited. Chillar contended that he immediately passed on the information concerning the environmental problems at AVC as soon as he was informed. Chillar further contended that Claimant acted solely on his own judgement. Chillar further contended that as a result of the above, he should not be held liable.

RELIEF REQUESTED

Claimant John M. Harvanek III, requested \$10,000.00 in actual damages.

Respondents Daniel C. Montano, Montano Securities, Corp., Alexander G. Montano, and Ramesh Chillar, requested that the claims of the Claimant be dismissed.

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Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Peter J. Dale, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on August 22, 1995 and by the Respondents Daniel C. Montano, and Montano Securities, Corp., on November 8, 1995, Alexander G. Montano on November 8, 1995, and Ramesh Chillar on November 3, 1995.

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. The claims of the Claimant John M. Harvanek III, against Respondents Daniel C. Montano, Montano Securities, Corp., Alexander G. Montano and Ramesh Chillar are denied in their entirety.
2. The parties shall bear their respective costs.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant John M. Harvanek, III, shall be retained by the NASD, Inc.

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AFFIRMATION

I, **PETER J. DALE, ESQ.**, do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.



Peter J. Dale, Esq.

DATE OF DECISION: February 15, 1996