

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Charles G. Durr

95-04494

Name of Respondents

Kochcapital
Russell Koch

CASE SUMMARY

In a case filed with the National Association of Securities Dealers Regulation, Inc. on September 21, 1995, Claimant Charles G. Durr, who appeared Pro Se, alleged that Respondent Russell Koch ("Koch") failed to handle his account as was agreed to when he purchased 1,000 preferred units of Scherzer-Moore's Master Limited Partnership offering ("SMMLP"). Claimant further alleged that he has a receipt for \$5,000.00 for the purchase of SMMLP. Claimant also alleged that in 1991 he recognized that this investment was not being handled correctly. Claimant asserted Koch gave him a stock certificate for 7,500 shares of worthless stock in Secure Data Inc. ("Secure"), which Claimant did not want or ask for. Claimant further asserted that he was given Secure by Koch to take the place of SMMLP. Claimant also asserted that the funds were not used for the purpose they were originally given.

Respondents Russell Koch and Kochcapital did not file Statement of Answers to the claim.

RELIEF REQUESTED

Claimant Charles G. Durr requested the return of the principal, plus a reasonable interest rate and \$175.00 in legal expenses.

Respondents Russell Koch and Kochcapital did not file Statement of Answers to the claim.

OTHER ISSUES CONSIDERED & DECIDED

In accordance with Section 10302 of the Code of the Arbitration Procedure, Respondents Russell Koch and Kochcapital were served by regular mail and given an opportunity to respond, which they failed to do. In addition, service of the overdue answer notice and notification of the Arbitrator's identity was effected upon Respondents Russell Koch and Kochcapital.

Pursuant to the By-laws of the NASD Regulation, Inc., the arbitrator determined that Respondents Kochcapital and Russell Koch had notice of the claim, and was required to submit to this arbitration proceeding; and is, therefore bound by the arbitrator's ruling and determination.

AWARD

Pursuant to Section 10302 of the Code of Arbitration Procedure, a single Public Arbitrator, Prudence W. Baldwin was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by claimant Charles G. Durr on October 26, 1995 and not by respondents Russell Koch and Kochcapital as required by Section 10301 and 10302 of the NASD Regulation, Inc. Code of Arbitration Procedure.

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. Respondents Russell Koch and Kochcapital are jointly and severally liable and shall pay Claimant Charles G. Durr the sum of \$5,000.00 in actual damages.
2. Respondents Russell Koch and Kochcapital are jointly and severally liable and shall pay Claimant Charles G. Durr interest at the rate of 4.4% per annum from November 19, 1991 to the date of payment of the award.
3. Claimant Charles G. Durr, upon receipt of payment of the Award plus interest shall return to Respondent Kochcapital the 7,500 shares of Secure Data Inc.
4. The \$125.00 filing fee previously deposited with National Association of Securities Dealers Regulation, Inc. shall be retained by the Association. Respondents Russell Koch and Kochcapital are liable and shall pay Claimant the sum of \$125.00 as reimbursement of the filing fee.

AFFIRMATION

I, Prudence Baldwin, 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


Prudence W. Baldwin

Date of Decision: December 5, 1996