

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Michael Stefaniak

95-04534

Name of Respondents

Marsh Block and Co.  
John Averyt

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**REPRESENTATION**

For Claimant Michael T. Stefaniak appeared Anthony J. Hom, Esq., Philadelphia, PA.

For Respondent Marsh Block & Co. appeared David W. Parsons, Marsh Block & Co., Inc., New York, NY.

Respondent John Averyt appeared David W. Parsons, Marsh Block & Co., Inc., New York, NY.

**CASE INFORMATION**

The Statement of Claim was filed on September 20, 1995.

Claimant's Submission Agreement was signed on July 18, 1995.

A Joint Statement of Answer was filed by the Respondents on November 16, 1995.

Respondents executed Submission Agreements on November 16, 1995.

**HEARING INFORMATION**

Hearing Date/Sessions:                      July 16, 1996   -                      Three Sessions

The hearing was held at the Albany Marriott in Albany, New York.

**CASE SUMMARY**

Claimant alleged that he suffered damages in his account maintained at Marsh Block & Co. as a result of the fraudulent and unlawful conduct of the Respondents. Claimant alleged that at the time he opened the account his stated investment objective was long-term growth. Claimant also alleged that Respondent Averyt recommended that Claimant purchase 200 shares of Chef International at \$1.50 per share and 1600 shares of Best Resources at \$5.825 in June of 1993. A few days after the initial purchase, Claimant purchased 1500 shares of International Sprotsfest at \$7.50 per share.

Claimant further alleged that Respondent Averyt omitted to disclose the risks associated with Claimant's investments. Respondent Averyt allegedly recommended and solicited Claimant to engage in the purchase of the above mentioned securities which Claimant alleged were unsuitable and resulted in a loss of \$20,700.00.

Respondents denied all allegations of wrongdoing asserted against them in the Statement of Claim. Respondents maintained that Claimant advised Respondents, upon the opening of his account, that he wished to pursue investments in speculative securities. Respondents further maintained that any loss or damage sustained by Claimant, if any, was caused or contributed to by Claimant's own actions or lack of due diligence. Respondents also maintained that Claimant acted in reckless disregard of the facts of which he had knowledge and failed to exercise the due care required of him and thus assumed the risk of damages.

### **RELIEF REQUESTED**

Claimant requested \$20,700.00 in compensatory damages plus interest for the date the losses were incurred to the date of this arbitration hearing plus attorneys fees, costs, and any other damages the panel may deem just and fair.

Respondents requested that this arbitration be dismissed, with prejudice, and that they be awarded costs, expenses, attorney's fees and such other and further relief as the nature of the case requires.

### **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. Respondents Marsh Block & Co., Inc. and John Averyt be and hereby are jointly and severally liable and shall pay to the Claimant, Michael T. Stefaniak, the sum of \$5,700.00, interest specifically excluded.
2. All claims for attorneys' fees be and hereby are denied.
3. Each party shall bear their respective costs, including attorneys' fees.
4. All other claims be and hereby are denied.

### **FORUM FEES**

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

3 sessions X \$400 = \$1,200

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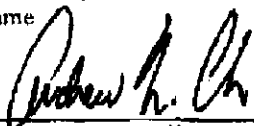
Claimant be and hereby is liable and shall pay to the NASDR, Inc. the sum of \$600.00 which represents one-half of the forum fees assessed. However, Claimant previously deposited \$400.00. Therefore, the amount due and owing to NASDR, Inc. is \$200.00.

Respondents be and hereby are jointly and severally liable and shall pay to NASDR, Inc. the sum of \$600.00 which represents one-half of the forum fees assessed.

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

Concurring Arbitrators' Signatures

Name



Andrew N. Carnell, Esq.  
Chairperson - Public Arbitrator

\_\_\_\_\_  
Edward LaVarnway  
Industry Arbitrator

\_\_\_\_\_  
Donald R. Bluth

I, Andrew N. Carnell, Esq., do hereby affirm pursuant to Article 7507 of the Civil Practice Law and Rules that this is my decision in the above referenced matter.

  
Andrew N. Carnell, Esq.

Date of Decision: 10/28/96

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Respondents be and hereby are jointly and severally liable and shall pay to NASDR, Inc. the sum of \$600.00 which represents one-half of the forum fees assessed.

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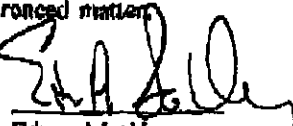
Concurring Arbitrators' Signatures  
Name

\_\_\_\_\_  
Andrew N. Carnell, Esq.  
Chairperson - Public Arbitrator

  
\_\_\_\_\_  
Edward LaVarnway  
Industry Arbitrator

\_\_\_\_\_  
Donald R. Bluth

I, Edward LaVarnway, do hereby affirm pursuant to Article 7507 of the Civil Practice Law and Rules that this is my decision in the above referenced matter.

  
\_\_\_\_\_  
Edward LaVarnway

Date of Decision: October 28, 1996

Claimant he and hereby is liable and shall pay to the NASDR, Inc. the sum of \$600.00 which represents one-half of the forum fees assessed. However, Claimant previously deposited \$400.00. Therefore, the amount due and owing to NASDR, Inc. is \$200.00.

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Concurring Arbitrators' Signatures  
Name

Andrew N. Carnell, Esq.  
Chairperson - Public Arbitrator

Edward LaVarnway  
Industry Arbitrator

Donald R. Bluth  
Donald R. Bluth

I, Donald R. Bluth, do hereby affirm pursuant to Article 7507 of the Civil Practice Law and Rules that this is my decision in the above referenced matter.

Donald R. Bluth  
Donald R. Bluth

Date of Decision: October 28, 1996