

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Michael R. Christian

96-00199

Name of Respondents

R. J. Steichen & Company
Kerry Hiben

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on January 16, 1995, Michael R. Christian ("Claimant"), who appeared Pro Se, alleged that Respondents R.J. Steichen & Company ("RJS") and Kerry Hiben ("Hiben"), gave him unsuitable investment advice. Claimant further alleged that he was an inexperienced investor who relied upon Hiben, a broker at RJS, for financial advice. Claimant contended that he did not recall Hiben asking him about his investment objectives or goals. Claimant further contended that Hiben recommended investments which were too speculative for his IRA account and that these stocks were consistently unprofitable. Claimant asserted that, based on Hiben's recommendations, he purchased stock in Advanced Promotion Technology, Spectrum Information Technology, KLH Engineering Group, and Gaming Corporation of America, among others, and that all of these investments were sold at a substantial loss. Claimant further asserted that Respondent was churning his account to increase his commissions, and that due to the wrongdoing of the Respondents, he suffered damages for which the Respondents should be held liable.

Respondent R.J. Steichen & Company, through its representative and counsel, Ann Exline Starr, Esq., maintained that Claimant was an active trader who controlled the activity of his own account. Respondent further maintained that Claimant indicated that he was interested in high yield, speculative investments and that Claimant diligently researched all investments. Respondent contended that any losses incurred were as a result of Claimant's own investment decisions, based upon information available at the time of purchase. Respondent denied any allegation of churning, and contended that Claimant was well in control of his own account and trading activity. The Respondent asserted that it had committed no wrongdoing, and requested that the claims against it be dismissed.

Respondent Kerry Hiben, who appeared Pro Se, maintained that Claimant was actively involved in all investment decisions and was fully informed on the quality of the investments he purchased. Respondent further maintained that he did not churn Claimant's account and that any losses which Claimant suffered were a result of Claimant's actions and investment decisions. Respondent contended that he had committed no wrongdoing, and requested that the claims against him be dismissed.

RELIEF REQUESTED

Claimant Michael R. Christian, requested \$10,000.00 in actual damages.

Respondent R.J. Steichen & Company requested that the claims of the Claimant be dismissed and that it be awarded costs, disbursements and reasonable attorneys' fees incurred in defending the action.

Respondent Kerry Hiben requested that the claims of the Claimant be dismissed.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Arlen G. Restad, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant Michael R. Christian, on January 9, 1996, and by the Respondent R.J. Steichen, on April 24, 1996, and by Respondent Kerry Hiben, on March 1, 1996.

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 Michael R. Christian, against the Respondents R.J. Steichen & Company and Kerry Hiben are dismissed in their entirety.
2. All other relief requests are denied.
3. The parties shall bear their respective costs.
4. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Michael R. Christian, shall be retained by the NASD, Inc.

AFFIRMATION

STATE OF *Minnesota*

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SS:



COUNTY OF *Dakota*

Stella Mathieu

I, ARLEN B. RESTAD 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.

Arden B. Restad
Signature of Arbitrator

DATE OF DECISION:

June 29, 1996