

NASD REGULATION, INC. AWARD

NASD REGULATION, INC.

In the Matter of the Arbitration Between

Name of Claimant

Suppes Securities, Inc.

96-01915

Name of Respondents

Nationwide Securities Corporation
d/b/a Nationwide Securities, Inc.

REPRESENTATION

For Claimant, Suppes Securities, Inc. ("Claimant"), appeared Andrew Zeitlin, Esq., of the law firm Tenzer Greenblatt located in New York, New York.

For Respondent, Nationwide Securities Corporation d/b/a Nationwide Securities, Inc. ("Respondent"), appeared Jonathan A. Pace, Esq., of the law firm Pace & Rickey, located in Dallas, Texas.

CASE INFORMATION

Statement of Claim filed: May 16, 1996.

Claimant's Submission Agreement signed on: May 1, 1996.

Respondent's Answer filed on: August 22, 1996.

Respondent's Submission Agreement signed on: August 20, 1996.

HEARING INFORMATION

Hearing Date/Sessions: January 10, 1997/Two Sessions

The hearings were held at the offices of NASD Regulation, Inc. located in New York, New York.

CASE SUMMARY

Claimant alleged that both claimant and respondent are broker/dealers registered with the NASD. Claimant further alleged that Nationwide was the underwriter for an offering of 750,000 shares of common stock ("the Stock") and 1,500,000 redeemable warrants ("Warrants") of Thermo-Mizer Environmental Corp. (collectively "the securities"). Claimant asserted that by letter dated February 22, 1996, respondent solicited claimant to act as a selected dealer of the securities and that claimant subsequently signed a Selected Dealers Agreement ("Agreement"). Claimant further asserted, that pursuant to the Agreement, it purchased 96,500 shares of the Stock at \$4.60 per share and 25,000 Warrants at \$0.9 per warrant from respondent a total of \$446,150. Claimant maintained that, on or about March 6, 1996, the parties agreed to modify the Agreement pursuant to which claimant agreed to purchase 66,500 shares of the Stock and respondent agreed to accept the return of 30,000 shares of the Stock and to refund to the claimant the purchase price. Claimant also maintained that it signed a modification of the Agreement pursuant to which it confirmed the purchase of 66,500 shares of the Stock instead of the original 96,000 shares and 25,000 public warrants. Claimant alleged that, on March 27, 1996, respondent refused to accept delivery of the 30,000 shares of the Stock and refund its purchase price. Claimant further alleged that respondent's failure to accept delivery of 30,000 shares of the Stock was an act of fraud and a breach of the Agreement. Claimant also alleged that, in order to mitigate its losses, it sold the 30,000 shares of the Stock in the public market and incurred a loss of \$80,256.26.

Respondent admitted that it entered into a dealer agreement with claimant to purchase 96,500 shares of the Stock. Respondent asserted, however, that it never agreed to repurchase 30,000 shares of the Stock. Respondent further asserted that at the time of the amendment, March 20, 1996, the price of the Stock had dropped below \$5.00 a share. Respondent also asserted it never executed the Agreement.

RELIEF REQUESTED

Claimant requested \$80,256.25 plus interest at 9% per annum from March 25, 1996 as compensation for the loss incurred in selling the Stock, costs of the arbitration and such other relief as the panel deemed just.

Respondent requested that the Statement of Claim be dismissed in its entirety and requested all costs associated with the arbitration.

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 original remains on file with the NASD.

Respondent did not appear at the hearing and advised the panel that it intended to rely upon the Statement of Answer.

Claimant filed a Motion to Preclude respondent from filing an Answer and Affirmative Defense. This motion was denied by the panel prior to the hearing.

Respondent filed a Motion to Dismiss the Statement of Claim. Respondent's motion was denied by the panel.

Claimant renewed its Motion to Preclude prior to the commencement of the first hearing session on January 10, 1997. The panel denied the motion.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing and post hearing submissions, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claims are dismissed in their entirety.
2. All other requests for relief are denied.
3. Each party is to bear its own costs.

FORUM FEES

Pursuant to Rule 10332 of the Code of Arbitration Procedure, the arbitrators have determined that NASD Regulation Inc., shall retain the \$500.00 non-refundable filing fee previously deposited by Claimant and have assessed the following forum fees:

$$2 \text{ Hearing Session} \times \$600.00 = \$1,200$$

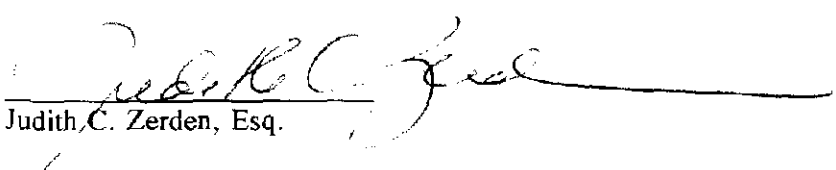
Claimant be and hereby is liable for the sum of \$600.00 representing one-half of the total amount of the forum fees assessed. Claimant previously deposited \$600.00 with NASD Regulation, Inc.. Therefore, claimant does not owe any forum fees.

Respondent be and hereby is liable for the sum of \$600.00 representing one-half of the total amount of the forum fees assessed. Therefore, Respondent owes \$600.00.

Fees are payable to the NASD Regulation, Inc.

Concurring Arbitrators' Signatures
Name

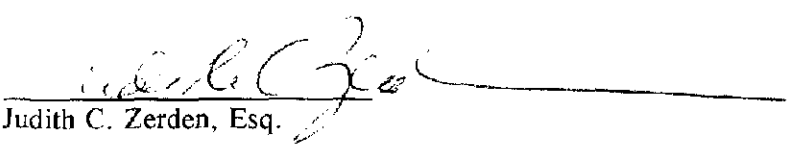
Pauline Mistretta, Esq.



Judith C. Zerden, Esq.

George J. Minnig

I, Judith C. Zerden, Esq. do hereby certify that this is my decision in the above-referenced matter.



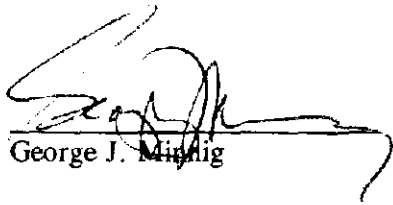
Judith C. Zerden, Esq.

NASD Date of Decision: March 19, 1997.

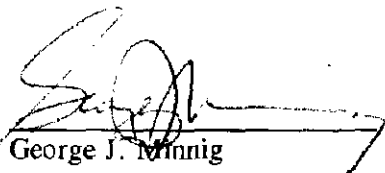
Concurring Arbitrators' Signatures
Name

Pauline Mistretta, Esq.

Judith C. Zerden, Esq.


George J. Minnig

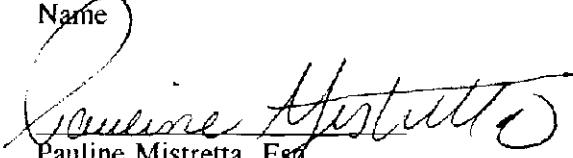
I, George J. Minnig, do hereby certify that this is my decision in the above-referenced matter.


George J. Minnig

NASD Date of Decision: March 19, 1997

Concurring Arbitrators' Signatures

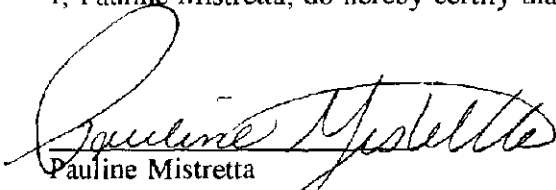
Name


Pauline Mistretta, Esq.

Judith C. Zerden, Esq.

George J. Minnig

I, Pauline Mistretta, do hereby certify that this is my decision in the above-referenced matter.


Pauline Mistretta

NASD Date of Decision: March 19, 1997