

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Among

Charles and Mary Kleckner,

Claimants

vs.

Janney Montgomery Scott & Co., Inc.,
Yorke McCarter Owen & Bartels, Inc.,
Broadchild Securities Corp.,
D.H. Blair Co., Inc. and
Edward Beaudette

Respondents

Case #87-00875

Award

CASE SUMMARY

Claimants alleged that Edward Beaudette, while in the employ of the above-captioned four firms liquidated certain assets of the Claimants without their authorization and reinvested the moneys earned from the sales into low grade securities which eventually became worthless. Claimants further alleged that Edward Beaudette had funds removed from their account which he used for his own purposes.

Respondents, Broadchild Securities Corp. and D.H. Blair Co., Inc. maintained that they should not be a party to this proceeding since the acts complained of by Claimants were due to the actions of Edward Beaudette.

Respondent, Janney Montgomery Scott & Co., Inc. maintained that there are no specific allegations relating to it. The Claimants were fully aware of all the transactions that took place in their account and they never questioned or complained about any transaction in the account while the account was open.

Respondent, Yorke McCarter Owen & Bartels, Inc. maintained that the Claimants failed to notify Yorke McCarter about any unauthorized trading in their account, thereby preventing Yorke McCarter from taking any actions to prevent the losses sustained by the Claimants. Furthermore, Edward Beaudette's previous employers did not indicate any reason not to employ Mr. Beaudette. If they had, Yorke McCarter Owen & Bartels, Inc. would not have hired him.

Relief Requested

Claimants requested damages of \$40,000.00. Of this amount, \$22,000, plus interest, was applicable to Janney Montgomery Scott & Co., Inc. Respondents D.H. Blair Co., Inc. and Broadchild Securities Corp. requested a dismissal of the claim. Broadchild Securities Corp. further requested a judgment against Edward Beaudette for indemnification. Janney Montgomery Scott & Co., Inc. requested a dismissal of the claim. Yorke McCarter Owen & Bartels, Inc. requested a dismissal of the claim and that they be awarded costs, disbursements and attorneys' fees from the Claimants as well as Broadchild Securities Corp., D.H. Blair Co., Inc. and Janney Montgomery Scott & Co., Inc.

Award

On February 28, 1989, June 20, 1989 and September 12, 1989, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by both Claimants, on May 5, 1987 by Broadchild Securities Corp. and D.H. Blair Co., Inc. on October 16, 1987, by Janney Montgomery Scott & Co., Inc. on August 17, 1987 and by Yorke McCarter Owen & Bartels, Inc. on August 10, 1987. The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has determined in full and final resolution of the issues submitted for determination as follows:

- A. It is acknowledged by the arbitrators that Claimants' claim against Broadchild Securities Corp. and D.H. Blair Co., Inc. had been settled prior to the September 12, 1989 hearing.
- B. It is also acknowledged by the arbitrators that the Claimants' claim against Yorke McCarter Owen & Bartels, Inc. was settled at the hearing session on September 12, 1989.
- C. Janney Montgomery Scott, Inc. shall be liable to the Claimants for the sum of Eleven Thousand Five Hundred Twenty-Seven Dollars and No Cents (\$11,527.00), which includes interest. This amount represents the misappropriation of the \$4,533.00 check, the responsibility for the trading losses in Claimants' account at Janney Montgomery Scott & Co., Inc. and interest.
- D. Edward Beaudette shall be liable for and shall pay to the Claimants the sum of Twenty-Eight Thousand Four Hundred Seventy-Three Dollars and No Cents (\$28,473.00) less any portion that the Claimants have received in settlement of the claims against Broadchild Securities Corp., D.H. Blair Co., Inc. and Yorke, McCarter Owen & Bartels, Inc.
- E. The panel did not reach a decision on the crossclaim of Broadchild Securities Corp. against Edward Beaudette because no proof was

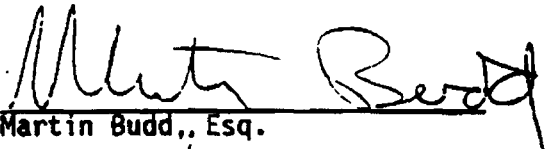
offered due to the settlement that occurred between the Claimants and Broadchild.

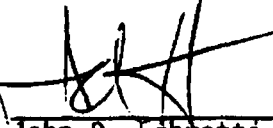
- F. The parties shall each bear their respective costs, including attorneys' fees.
- G. Pursuant to Section 30(b) of the NASD Code of Arbitration Procedure, the Claimants shall be liable for the sum of \$100.00 for receiving an adjournment of the November 2, 1988 hearing.
- H. Pursuant to Section 30(b) of the NASD Code of Arbitration Procedure, Janney Montgomery Scott & Co., Inc. shall be liable for and shall pay to the NASD, Inc. the sum of \$100.00 for the receiving an adjournment of the February 1, 1989 hearing.
- I. Pursuant to Section 43 of the Code of Arbitration Procedure, the Claimants shall be liable for the sum of \$475.00. This amount represents \$375.00 for the use of this forum and \$100.00 for the adjournment received as set forth in paragraph G of this Award.
- J. In accordance with Section 43 of the Code of Arbitration Procedure, the remaining amount of forum fees totalling \$1,125.00 shall be assessed against the following Respondents and apportioned in the following manner:
 - 1. Janney Montgomery Scott & Co., Inc. - \$375.00
 - 2. Yorke McCarter Owen & Bartels, Inc. - \$375.00
 - 3. Broadchild Securities Corp. - \$187.50
 - 4. D.H. Blair Co., Inc. - \$187.50
- K. Although the Claimants are liable for the forum and adjournment fees as set forth in paragraph I of this Award, the panel has determined that Janney Montgomery Scott & Co., Inc. shall pay to the NASD, Inc. the total amount of the forum fees in one check. In order to accomplish this, Janney Montgomery Scott, Inc. shall deduct the amounts indicated in paragraph I of this Award from the monies awarded to the Claimants as set forth in paragraph C of this Award. Thus, Janney Montgomery Scott, Inc. shall pay to the Claimants the sum of Eleven Thousand Fifty-Two Dollars and No Cents (\$11,052.00).
- L. As set forth above, the total sum due from Janney Montgomery Scott, Inc. to Charles and Mary Kleckner is \$11,052.00. The total sum due from Edward Beaudette to Charles and Mary Kleckner is \$28,473.00, less any portion that the Claimants have received in settlement with the parties as set forth in paragraph D of the Award. The total sum due from Janney Montgomery Scott, Inc. to the NASD, Inc. is \$950.00. The total sum due from Yorke McCarter Owen & Bartels,

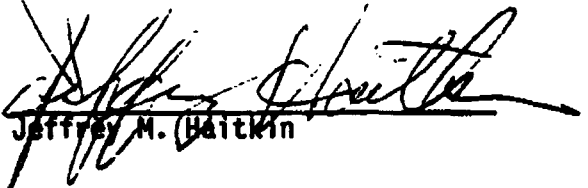
Award #87-00875
page 4

Inc. to the NASD, Inc. is \$375.00. The total amount due from Broadchild Securities Corp. to the NASD, Inc. is \$187.50. The total sum due from D.H. Blair Co., Inc. to the NASD, Inc. is \$187.50.

ARBITRATORS CONCURRING


Martin Budd, Esq.


John P. Libretti, Esq.


Jeffrey M. Haitkin

Dated: October 11, 1989

57-875

STATE OF Connecticut s.s.:
COUNTY OF Hartford

On this 25th day of September, 1989, before me personally appeared MARTIN BUDD, ESQ. to me known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he/she executed the same.

Car M. Novotny

STATE OF NY s.s.:
COUNTY OF NY

On this 3rd day of Oct., 1989, before me personally appeared JOHN P. LIBRETTI, ESQ. to me known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he/she executed the same.

RUTH NOVOTNY-SCHELSBERG
Notary Public, State of New York
No. 43-46643B Notary
Qualified in Richmond County
Commission Expires March 20, 1990

Ruth Novotny-Schelsberg

STATE OF New Jersey s.s.:
COUNTY OF Bergen

On this 29 day of September, 1989, before me personally appeared JEFFREY M. HALTKIN to me known and known to me to be the individual described in and who executed the foregoing instrument and be acknowledged to me that he/she executed the same.

Virginia M. Jack

VIRGINIA M. JACK
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES APRIL 8, 1994