

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between)
)
MARJORIE P. JAFFEE, JOAN B. PUCKETT)
and MARJORIE P. JAFFEE & CO., INC.,)
)
Claimants,)
) Case #88-02707
vs.) Award
)
COPELAND SECURITIES, INC., KENNETH)
GERMAIN and KENNETH LISSAK,)
)
Respondents.)
)

Heard before the members of the Arbitration Panel:

Myron Dunay, Esq.
Sidney M. Dubbin, Esq.
Alfred Seaber

CASE SUMMARY

This claim was filed with the NASD, Inc. on August 25, 1988. The hearing was conducted in Fort Lauderdale, Florida on November 16, 1989 with a total of two sessions.

Claimants Marjorie P. Jaffee ("Jaffee"), Marjorie P. Jaffee & Co., Inc. ("MPJ") and Joan B. Puckett ("Puckett") alleged that Respondent Copeland Securities Inc. ("Copeland"), through Nancy Smollers, solicited the Claimants to purchase stock in Total Health Systems through misrepresentations of material facts; that Copeland was the alter ego of Kenneth Germain ("Germain") and Kenneth Lissak ("Lissak"); that the Respondents committed fraud both in the sale of the stock and subsequent promises to make Claimants whole; and, that Respondents failed to pay on their promissory notes resulting in loss to the Claimants.

Respondents Germain and Copeland failed to file any Answer. Respondent Lissak filed an Answer via letter dated November 6, 1989, and denied any allegations of wrongdoing.

RELIEF REQUESTED

Claimants requested damages as specified in the promissory notes:

1. Joint account of Jaffee and Puckett in the amount of \$15,874.50, plus interest at the legal rate of 12% per annum from July 1, 1988 to the date of the Award; and,
2. Corporate account of MPJ in the amount of \$46,485.00, plus interest at the legal rate of 12% per annum from July 1, 1988 to the date of the Award.

Respondent Lissak requested that he be released from the arbitration proceedings.

AWARD

On November 16, 1989, the arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimants Jaffee, Puckett and MPJ on August 22, 1988, and by Respondent Lissak on November 6, 1989, and not signed by Respondents Germain and Copeland as required by Section 12(a) of the Code. 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:

1. The Claimants 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, Inc.
2. Respondents Copeland, Lissak and Germain shall be liable, jointly and severally, and shall pay to the Claimants:
 - a. Fifteen Thousand Eight Hundred Seventy Four and 50/100 (\$15,874.50) Dollars, plus interest at the legal rate of 12% per annum in the amount of Two Thousand Six Hundred Ninety Eight and 66/100 (\$2,698.66) Dollars, for a total of Eighteen Thousand Five Hundred Seventy Three and 16/100 (\$18,573.16) Dollars to Claimants Jaffee and Puckett; and,
 - b. Forty Six Thousand Four Hundred Eighty Five and 00/100 (\$46,485.00) Dollars, plus interest at the legal rate of 12% per annum in the amount of Seven Thousand Nine Hundred Two and 45/100 (\$7,902.45) Dollars, for a total of Fifty Four Thousand Three Hundred Eighty Seven and 45/100 (\$54,387.45) Dollars to Claimant MPJ.
3. Respondent Lissak's request to be released from this arbitration is denied.
4. Pursuant to Section 43 of the Code of Arbitration Procedure, Respondents Copeland, Germain and Lissak shall be liable for and are hereby assessed forum fees, jointly and severally, in the amount of: One Thousand and 00/100 (\$1,000.00) Dollars (\$500.00 x two sessions), of which Five Hundred and 00/100 (\$500.00) Dollars shall be paid directly to Claimants and Five Hundred and 00/100 (\$500.00) Dollars of which shall be paid to the National Association of Securities Dealers, Inc. The NASD, Inc. shall retain the Five Hundred and 00/100 (\$500.00) Dollar filing fee previously deposited by the Claimants.
5. The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding including attorney's fees.

OTHER ISSUES

This Panel finds that the record in this case reveals adequate notice to both Germain and Copeland as reflected in the documents comprising Arbitrator's Exhibit Number 3. That exhibit includes documents reflecting service of the Claim by mail to Germain and Copeland and the receipt by Germain, on behalf of himself and Copeland, of the notice of this hearing by certified mail receipt dated March 30, 1989.

This Panel has jurisdiction over Germain and Copeland, as an associated person and member firm respectively, pursuant to Sections 12 and 25 of the NASD Code of Arbitration Procedure, notwithstanding their election not to file Answers or to appear at the hearing of this matter.

ARBITRATORS CONCURRING

Myron Dunay Esq., Sidney M. Dubbin Esq. and Alfred Seaber.

Received this 28th day of November 1989.