

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Mapleton Plaza Partnership

90-00979

Name of Respondents

The Stuart-James Company, Inc.  
Jim Romano  
Dirk Nye

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CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. ("NASD") on or about April 3, 1990, Mapleton Plaza Partnership ("Claimant") alleged that the Stuart-James Co., Inc., Jim Romano and Dirk Nye (collectively as "Respondents") made unauthorized sales of securities in its margin account. Claimant further alleges that there was sufficient equity or cash available to meet any margin calls and that the liquidation was not necessary.

In their joint Answer, Counter Claim and Third Party Claims filed with the NASD on or about May 9, 1990 Respondents denied the allegations. Respondents stated that the liquidation was done in compliance with the terms of the margin agreement between the parties and the federal margin requirements. The Respondents voluntarily withdrew the Counter Claims and Third Party Claims.

RELIEF REQUESTED

Claimant requested an award in the amount of \$4,133.00, punitive damages, and expenses.

Respondents requested that the Statement of Claim be dismissed and that the costs be assessed against Claimant.

PROCEDURAL MATTERS

On Tuesday, March 19, 1991 and Tuesday April 23, 1991 in Denver, Colorado during a hearing lasting a total of four (4) sessions, including a pre-hearing conference held on March 12, 1991, the undersigned arbitrator heard the controversy between the parties as set forth in submissions to arbitration signed on March 30, 1990 by James B. Wiegand on behalf of Claimant on April 24, 1990 by Marc N. Geman on behalf of Respondent Stuart-James Co., Inc. on May 4, 1990 by Respondent James Romano and on April 24, 1990 by Respondent Dirk Nye.

The parties have agreed that a handwritten, signed Award may be entered. The parties have agreed to receive a typed conformed copy of the award while the original remains on file with the NASD.

AWARD

The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent Stuart-James Co., Inc. shall be and hereby is liable for and shall pay to the Claimant Mapleton Plaza Partnership the sum of Two Thousand Dollars (\$2,000.00);
2. Interest at the rate of 8% per annum from and inclusive of February 2, 1990 to the date this award is paid;
3. The claims asserted against Respondents Dirk Nye and James Romano shall be and hereby are dismissed in their entirety;
4. Each party shall bear its own costs and expenses including attorney's fees incurred in this matter; and
5. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the hearing session deposit in the amount of 50.00 previously deposited with the NASD by the Claimant. Claimant shall pay to the NASD the sum of \$150.00 and Respondent Stuart-James shall pay to the NASD the sum of \$200.00 as forum fees.

Dated:

April 23, 1991

Wesley B. Howard  
Wesley B. Howard, Esq.  
Presiding Chair