



N.A.S.D. AWARD

Arbitration

NATIONAL ASSOCIATION OF SECURITIES DEALERS

National Association of
Securities Dealers, Inc.
NASD Financial Center
33 Whitehall Street
New York, New York 10004

In the Matter of the Arbitration Between

Name of Claimant(s)

Roger Frisch

90-01606

Name of Respondent(s)

M.J. Whitman & Co., Inc.

REPRESENTATION

Claimant appeared pro se.

For Respondent: Terry D. Weissman Esq. of Kramer Levin Nessen Kamin & Frankel.

CASE INFORMATION

Statement of Claim filed: 6/7/90.

Claimant's Submission Agreement signed on: 6/4/90

Statement of Answer filed: 8/13/90.

Respondent's Submission Agreement and Acknowledgment for Corporation signed: 8/6/90 by David Lefkowitz on behalf of the firm.

HEARING INFORMATION

Hearing Date: 9/11/91-Two (2) Sessions.

Hearing Date: 9/12/91-Two (2) Sessions.

Total number of sessions-four (4)

Hearing Location: New York City, NY

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CASE SUMMARY

Claimant, Roger Frisch, alleged that his Claim arose as a result of trading in the common stock and certain bonds of General Development Company ("GDV") on the New York Stock Exchange through Respondent, M.J. Whitman & Co., Inc. ("Whitman"). Claimant alleged that Respondent, Whitman, actively solicited orders from him and neglected to provide him with certain material facts about the company (that a bankruptcy filing could occur) and thereafter failed to apprise Claimant of public announcements by the Company which caused a decline in the value of the securities of more than 50% between the Friday afternoon of the purchase and the following Monday Morning.

Respondent, Whitman, denied all allegations contained in the Statement of Claim and further denied that it is liable to Claimant for any monetary damages. Respondent maintained that while Whitman was aware prior to GDV's announcement that a bankruptcy filing could occur, Whitman, had no way of knowing that such an event would occur when it recommended GDV securities to Mr. Frisch. Respondent stated that it was its judgment that the likelihood of such an event was relatively remote, that the prices of the GDV securities were so low that the potential rewards to Claimant and others if the company remained solvent far outweighed the risk of loss if it did not and that further, GDV was likely to refinance its bank debt and remain solvent. Respondent further maintained that there is no basis in fact or law to hold it liable for Claimant's losses.

RELIEF REQUESTED

Claimants requested: An award in the amount of \$34,300.00 including interest on his margin payments and the return of his filing fee.

Respondent requested dismissal of the Claim plus attorneys' fees.

AWARD

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

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award 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.

1. All Claims of the Claimant, Roger Frisch, against the Respondent, Martin J. Whitman & Co., Inc., shall be and are hereby dismissed in all respects;
2. The parties shall each bear their respective costs including attorneys' fees.

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FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed:

4 Sessions X \$400.00 = \$1,600.00.

One Pre-Hearing conference on 2/19/91 = \$300.00

Total forum fees assessable = \$1,900.00

Forum fees assessed against:

1- Claimant, in the amount of \$670.00 which represents one hearing session and half the cost of the Pre-hearing session as well as \$120.00 non-refundable deposited due and not previously paid by Claimant at the time of Filing; however, Claimant may use its \$400.00 hearing session deposit to offset this fee, thereby the amount due and owing equals \$270.00;

2- Respondent, in the amount of \$1,300.00.

Fees are payable to the National Association of Securities Dealers, Inc.

ARBITRATION PANEL

CONCURRING ARBITRATORS

Name	Public/Industry
/s/	
Arnold L. Goren	Public/Chairman
/s/	
Jerome Goodgal	Public/Panelist
/s/	
Edward S. DeSalvio	Industry/Panelist