

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

: In the Matter of the Arbitration Between :
: :
: Harold J. Wain, M.D. :
: Martin W. Graf, M.D. :
: :
: Claimants : ~~CASE# 90-02334~~
: vs. : 90-01669
: :
: PaineWebber, Inc. :
: Daniel Strishock :
: :
: Respondents :

Heard before:

Stephen E. Crable, Esq.
John W. Johnson, Esq.
Alexander Heckman, Esq.

Public Arbitrator
Public Arbitrator
Industry Arbitrator

CASE SUMMARY

In claims filed with the National Association of Securities Dealers, Inc. by Claimant Harold J. Wain, M.D. on June 11, 1990 and by Claimant Martin W. Graf, M.D. on June 11, 1990, Claimants Harold J. Wain, M.D. and Martin W. Graf, M.D. alleged Respondents convinced the Claimants to make several stock purchases based upon statements made by Respondent Daniel Strishock which were untrue or misleading in light of the circumstances in which they were made and Claimants further alleged the investments would not have been made were it not for the misrepresentations of Respondent Daniel Strishock. Claimants further alleged the Respondent Daniel Strishock tried to convey the impression that he had access to detailed information regarding the status or prospects of certain companies which was not available to other brokers with whom the Claimants might have dealt. Claimants further alleged the Respondent Daniel Strishock tried to manipulate the price of the stock in an attempt to create an appearance of turn around in the market for the stock and the Respondent PaineWebber, Inc. failed to adequately supervise Respondent Daniel Strishock. Respondents PaineWebber, Inc. and Daniel Strishock maintained the Respondents at all times acted in good faith and further maintained PaineWebber, Inc. supervised the Claimants' accounts properly and diligently and has no knowledge or reasonable ground to believe in the existence of facts which would lead to liability on its or its broker's part. Respondents further maintained the Claimants were at all times in control of the trading of their accounts and were experienced, sophisticated investors who maintained trading accounts with brokerage houses other than PaineWebber, Inc. and the trading was not inappropriate in light of Claimants' trading objectives and Claimants at all times made their own decisions with respect

to ~~purchases and~~ sales of securities and at no time did Respondent Daniel Strishock use discretion with respect to any of the accounts. Respondents further maintained the Claimants knew and ~~understood the~~ risks associated with the investments made in their accounts and represented themselves as willing and able to assume those risks and the nature and frequency of the transactions were suitable to their financial circumstances, background, ~~experience~~ and objectives.

RELIEF REQUESTED

Claimant Harold J. Wain, M.D. requested damages of \$150,000.00, ~~plus~~ punitive damages of \$100,000.00, plus costs and attorneys' fees. Claimant Martin W. Graf, M.D. requested damages of \$150,000.00, ~~plus~~ punitive damages of \$100,000.00, plus costs and attorneys' fees. Respondents PaineWebber, Inc. and Daniel Strishock requested dismissal of all claims and that costs be assessed against the Claimants.

AWARD

On March 14 and April 9, 1991 the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant Harold J. Wain, M.D. on May 31, 1990 and by Claimant Martin W. Graf, M.D. on May 22, 1990 and by Respondents PaineWebber, Inc. and Daniel Strishock on March 13, 1991. The hearings were conducted in Washington, DC and consisted of four (4) hearing sessions. 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:

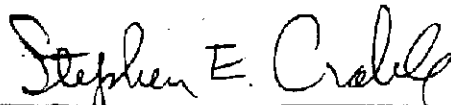
1. The claims by the Claimants Harold J. Wain, M.D. and Martin W. Graf, M.D. be and hereby are dismissed in all respects.

2. The parties shall each bear their respective costs, including attorneys' fees.

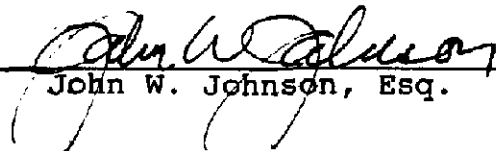
FORUM FEES

Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$750.00 filing fee previously deposited by Claimant Harold J. Wain, M.D. and the \$750.00 filing fee previously deposited by Claimant Martin W. Graf, M.D. and the Respondents PaineWebber, Inc. and Daniel Strishock be and hereby are liable jointly and severally and shall pay to the National Association of Securities Dealers, Inc. the sum of \$1,700.00 to represent forum fees.

ARBITRATORS SIGNATURES



Stephen E. Crable, Esq.



John W. Johnson, Esq.



Alexander Heckman, Esq.

Date of Decision: April 29, 1991