

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Jay F. and Loretta Gunderson

90-02212

Name of Respondent(s)

Private Investors Cartel Ltd.
Tim Peck

REPRESENTATION

Claimants, Jay F. and Loretta Gunderson were Pro Se.

Respondent, Private Investors Cartel Ltd., was represented by David A. Zisser of Berliner Boyle Kaplan Zisser & Walter.

Respondent, Tim Peck, did not attend the hearing nor did he appear in this arbitration.

CASE INFORMATION

Statement of Claim filed: August 14, 1990.

Claimant's Submission Agreement signed on: August 8, 1990.

Respondent, Private Investors Cartel's Submission Agreement and Corporate Acknowledgment signed by George Lee on: April 10, 1991.

Respondent, Tim Peck did not execute a Submission Agreement.

Statement of Answer filed by Respondent, Private Investors Cartel on: May 14, 1991.

HEARING INFORMATION

Hearing Date: June 4, 1991-two (2) sessions.

Hearing Location: New York City, NY.

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CASE SUMMARY

Claimants, Jay F. and Loretta Gunderson who reside in Connecticut, alleged that they bought 140000 shares of Seahawk Deep Ocean Technology ("Seahawk"), penny stock through Respondent, Tim Peck ("Peck"), who was employed with Kober Financial Corporation at the time. Thereafter, Peck was employed with Private Investors Cartel Ltd., ("PIC"), and persuaded the Claimants to transfer their portfolio. However, the Claimants alleged that Respondent, Peck, failed to inform them that PIC and Peck's clearing house, Emmett A. Larkin Co., were not licensed in the state of Connecticut until Peck attempted to sell the shares, at which point Peck requested a New York State address from Claimants before he could execute the trade. As a consequence of the resulting delay, Claimants alleged that they received a depressed amount per share when the sale was eventually executed.

Respondent, Private Investors Cartel Ltd., denied fault in the Claimants' loss. PIC contended that it reasonably relied on the Claimants' misrepresentation of their true state of residence and thus executed the Seahawk sales transaction. Furthermore, PIC asserted a Counterclaim for damages sustained as a result of the fraud.

Respondent, Tim Peck, did not appear at the hearing nor did he submit a Statement of Answer or Executed Submission Agreement. Based upon the evidence submitted in Arbitrators' Exhibit No. 1 regarding hearing notices to the Parties, this arbitration panel finds that proper notice exists as well as jurisdiction pursuant to Section 12(a) of the Code of Arbitration Procedure over Respondent, Tim Peck. Pursuant to Section 29 of the Code of Arbitration Procedure and based upon evidence in Arbitrators' Exhibit No. 1, this Arbitration Panel proceeded with the hearing in his absence.

RELIEF REQUESTED

Claimants requested that they be awarded \$58,000.00 in actual and compensatory damages.

Respondent, Private Investors Cartel Ltd. requested dismissal of the Claim and relief on its Counterclaim.

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 follow:

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(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. Claimants' Claim against Respondents, Tim Peck and Private Investors Cartel, Ltd., shall be and is hereby dismissed in all respects;
2. The Counterclaim of Respondent, Private Investors Cartel Ltd., against Claimants shall be and is hereby dismissed in all respects;
3. The Parties shall each bear their respective costs, including attorneys' fees;
4. Pursuant to Section 43 of the Code of Arbitration Procedure, the NASD, Inc. shall retain the \$650.00 filing fee previously deposited by Claimants;

FORUM FEES

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

(2 sessions X \$500= \$1,000 minus hearing session deposit of \$500 = net \$500 due).

Respondent, Tim Peck, is hereby assessed forum fees in the amount of \$500.00;

Respondent, Tim Peck, is also required to pay to Claimant an additional sum of \$75.00 which represents one half of the non-refundable filing fee paid by Claimant which has been retained by the NASD, Inc.

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

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ARBITRATION PANEL

Name	Public/Industry
Richard W. Vallario, Esq.	Public/Chairman
Jerome Goodgal	Public/Panelist
John B. Ryan	Industry/Panelist

Concurring Arbitrators' Signatures

/s/
Richard W. Vallario, Esq.

/s/
Jerome Goodgal

/s/
John B. Ryan

DATED BY THE NASD _____

DATED BY NASD
JUNE 25, 1991