

N.A.S.D. AWARD -

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Thomas Kaufman

90-02597

Name of Respondents

J.W. Gant and Associates, Inc.
Jonathan White

REPRESENTATION OF PARTIES

Thomas Kaufman was represented by Sheldon E. Friedman, Esq. of Cortez & Friedman, P.C., Denver, CO.

J.W. Gant & Associates, Inc. and Jonathan White were represented by Dean Aarestad, Esq. and Tamara R. Walters, Esq. of Aarestad & Dihle, P.C., Aurora, CO.

CASE SUMMARY

In a Statement of Claim filed with the National Association of Securities Dealers, Inc. ("NASD") on or about September 17, 1990, Thomas Kaufman ("Claimant") alleged that Jonathan White, an employee of J.W. Gant & Associates, Inc. (collectively as "Respondents") made material misrepresentations and omitted to state material facts to induce him to purchase and hold shares of EVC Corporation, Westar Corporation and Capital Foods Corporation.

In their joint Answer and Counterclaim dated January 17, 1991, Respondents stated that the Claimant is an experienced and informed investor who made an independent decision to purchase shares of EVC Corporation, Westar Corporation and Capital Foods Corporation. Respondents further stated that Claimant knowingly assumed the risk of any variation in market price and denied that any misrepresentations were made to the Claimant. In their counterclaim, Respondents allege that this claim is substantially frivolous and substantially groundless.

In his Answer to the Counterclaim dated January 21, 1991, Claimant stated that the counterclaim should be dismissed since the statute relied upon by Respondents applied only to court proceedings and not to arbitrations.

RELIEF REQUESTED

Claimant requested an award in the amount of \$31,552.00 plus costs, attorneys fees and punitive damages. Claimant also requested that the Counterclaim be dismissed.

Respondents requested that the claim be dismissed and that they be awarded their costs and attorneys fees.

PROCEDURAL MATTERS

On Monday, October 7, 1991 in Denver, Colorado during a hearing lasting a total of two (2) sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on September 7, 1991 by Claimant Thomas Kaufman on January 17, 1991 by Mark Lathrop on behalf of Respondent J.W. Gant & Associates, Inc. and by Respondent Jonathan White.

The parties 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 original(s) remain 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. The Statement of Claim shall be and hereby is dismissed and denied in its entirety;
2. The Counterclaim asserted herein shall be and hereby is dismissed and denied in its entirety;
3. Each party shall bear its own costs, expenses and attorney's fees incurred in this matter not specifically enumerated herein; and

4. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the non-refundable filing fee in the amount of \$120.00 and shall retain the hearing session deposit in the amount of \$400.00 previously deposited with the NASD by the Claimant as forum fees. Respondents J.W. Gant & Associates, Inc. and Jonathan White shall pay to the NASD the sum of \$400.00 as forum fees.

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

Dated:

Thaddeus J. Tecza, PhD.
Presiding Chair
Public Arbitrator

James J. Cronin, Esq.
Public Arbitrator

Devra Perch
Devra Perch
Industry Arbitrator

10-21-91

4. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the non-refundable filing fee in the amount of \$120.00 and shall retain the hearing session deposit in the amount of \$400.00 previously deposited with the NASD by the Claimant as forum fees. Respondents J.W. Gant & Associates, Inc. and Jonathan White shall pay to the NASD the sum of \$400.00 as forum fees.

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

Dated:

10/19/91

Thaddeus J. Pecza, Ph.D.
Thaddeus J. Pecza, Ph.D.
Presiding Chair
Public Arbitrator

James J. Cronin, Esq.
Public Arbitrator

Devra Perch
Industry Arbitrator

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

Dated:

October 19, 1991

Thaddeus J. Tecza, PhD.
Presiding Chair
Public Arbitrator



James J. Cronin, Esq.
Public Arbitrator

Devra Perch
Industry Arbitrator