

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Borgert Products, Inc.

90-03301

Name of Respondents

Piper, Jeffray & Hopwood, Inc.
John F. Huls
Kim Krzenski

REPRESENTATION

For Claimant Borgert Products, Inc.: Jean M. Didier, Esq. of Hughes, Thoreen, Mathews & Knapp, St. Cloud, Minnesota.

For Respondents Piper Jeffray & Hopwood, Inc. and John Huls: Michael Lindsay, Esq. of Dorsey & Whitney, P.C. Minneapolis, Minnesota.

For Respondent Kim Krzenski: appeared pro se.

CASE INFORMATION

Statement of Claim filed by Claimant Borgert Products, Inc.: November 20, 1990.

Claimant's Submission Agreement signed on: February 28, 1991.

Joint Statement of Answer filed by Respondents, Piper Jeffray & Hopwood, Inc. and John Huls on: May 7, 1991.

Respondent, Piper Jeffray & Hopwood, Inc.'s Submission Agreement signed on: May 7, 1991. Respondent John Huls's Submission Agreement signed on: May 1, 1991.

HEARING INFORMATION

Hearing Dates/Sessions: February 3, 1992 for two (2) sessions.

Hearing Location: Minneapolis, Minnesota.

CASE SUMMARY

Borgert Products, Inc. ("Claimant") alleged that Respondent Piper, Jeffray & Hopwood, Inc. ("PJH") through its representatives, Respondents Kim Krzenski and John Huls ("Huls") failed to purchase sufficient foreign currency options to cover Claimant's obligation to pay 1,210,000 Deutschmarks. Claimant alleged that they had "unsophisticated securities investment experience." Claimant alleged the following violations in connection with the said transaction: (1.) Minn. Stat. Section 80A.01 and 80A.23; (2.) 17 CFR 240.10b.5; (3.) Negligence; (4.) Breach of Contract; (5.) Breach of Fiduciary Duty.

Respondents PJH and Huls denied the claim, specifically alleging that PJH did not agree to execute for Claimant the purchase of sufficient options in Marks to cover 1,210,000 DM. Rather, PJH and Huls alleged that the agreement was that PJH would execute orders placed by Claimant. PJH and Huls further alleged that nothing in the Agreement suggested PJH undertook to provide Claimant financial advice.

RELIEF REQUESTED

Claimant requested an award in its favor against Respondents jointly and severally as follows: (1.) For an award of actual damages in an amount in excess of \$50,000.00, the exact amount to be determined by the arbitrators at the hearing; (2.) For interest at the rate of 12% from July 1, 1990, on all sums awarded as damages by the arbitrators; (3.) For an award of Claimant's reasonable attorney's fees; (4.) For such other and further relief as is just and equitable.

Respondents Piper Jeffray & Hopwood, Inc. and John Huls requested that the panel dismiss the claims against them in its entirety.

OTHER ISSUES CONSIDERED & DECIDED

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 originals remain on file with the NASD.

Respondent Kim Krzenski did not file an answer or a submission agreement. The panel determined that proper service was effected on him. Kim Krzenski did appear at the hearing.

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:

1. The claims asserted against Respondent Kim Krzenski are denied in their entirety;

91-3001

2. Respondents Piper, Jeffray & Hopwood, Inc. and John Huls shall be jointly and severally liable for and shall pay to the Claimant Borgert Products, Inc. actual damages in the amount of \$24,470.00;

3. Respondents Piper Jeffray & Hopwood, Inc. and John Huls shall be jointly and severally liable for and shall pay to the Claimant Borgert Products, Inc. interest on the above stated sum at the legal rate, beginning on July 27, 1990;

4. Each party shall bear their own costs and expenses including attorney's fees, other than those specifically enumerated herein.

FORUM FEES

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

2 sessions X \$500 = \$1000 minus hearing session deposit of \$500 = net \$500 due.

Balance of the Forum fees Assessed Against: Respondent Piper Jeffray & Hopwood, Inc. and John Huls, jointly and severally, in the amount of \$500.

SMH
The postponement fee shall/~~shall not~~ be waived.

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

BY THE ARBITRATION PANEL:

DATED:

Arthur L. Sirkis, Esq.
Public Arbitrator, Chairperson

Wendy A. Sacha
Public Arbitrator

E. J. Hentges

Edward J. Hentges
Industry Arbitrator

3/26/92

9/1-3561

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

BY THE ARBITRATION PANEL:

DATED:

Arthur L. Sirkis, Esq.
Arthur L. Sirkis, Esq.
Public Arbitrator, Chairperson

3/25/92

Wendy A. Sacha
Wendy A. Sacha
Public Arbitrator

Edward J. Bentges
Edward J. Bentges
Industry Arbitrator

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BY THE ARBITRATION PANEL:

DATED:

Arthur L. Siskin, Esq.
Public Arbitrator, Chairperson

Wendy A. Sacha
Wendy A. Sacha
Public Arbitrator

Edward J. Hentges
Industry Arbitrator