

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Earnest W. Dean, Jr., Esq.

90-03459

Name of Respondents

PaineWebber, Inc.
David A. Kalkut

REPRESENTATION

For Claimant: Earnest W. Dean, Jr. represented himself.

For Respondents: Joseph A. Vallo, Esq., Divisional Vice President,
PaineWebber, Inc.

CASE INFORMATION

Statement of Claim filed: December 7, 1990.

Claimant Earnest W. Dean, Jr.,'s ("Claimant") Submission Agreement signed on:
December 4, 1990.

Joint Statement of Answer filed by Respondents on: March 15, 1991.

Respondent PaineWebber, Inc.'s ("PaineWebber") Submission Agreement signed
on: March 14, 1991.

Respondent David A. Kalkut ("Kalkut") Submission Agreement signed on: March
1, 1991.

HEARING INFORMATION

Pre-Hearing Conference: August 2, 1991 - one session

Hearing Dates/Sessions: August 12, 1991 - two sessions
August 13, 1991 - two sessions
October 24, 1991 - two sessions
October 25, 1991 - two sessions

Hearing Location: NASD Office, New York City

CASE SUMMARY

Claimant alleged that Kalkut made material misrepresentations with respect to Jamesway Corporation Stock ("Jamesway") which caused Claimant to purchase 8,100 shares of Jamesway stock. Claimant alleged that Kalkut made misrepresentations regarding Jamesway causing Claimant to continue to hold Jamesway. Claimant alleged that Kalkut among other misrepresentation, told Claimant that a buyout offer had been made for Jamesway at \$18 per share. Claimant alleged that PaineWebber failed to exercise sufficient supervision and control over Kalkut. Claimant alleged that Kalkut's representations were sufficiently false, grossly negligent and reckless as to constitute violations of Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 of the Securities Exchange Commission. Claimant alleged that the false and reckless representations of Kalkut constituted a violation of Florida Securities and Investor Protection Act as well as violations of Florida Common Law.

Respondents denied Claimant's allegations and denied that Claimant was damaged in any way by Respondents. Respondents maintained that Claimant was a sophisticated investor with years of investment experience. Respondents maintained that the solicitation and eventual purchase of Jamesway was based on careful research, analysis and deliberation by Claimant. Respondents maintained that Claimant's decision to purchase Jamesway was not the result of pressure from Kalkut; instead, the decision to purchase Jamesway was thought out by Claimant and in line with his investment objectives. Respondent Kalkut denied making any and all misrepresentations regarding Jamesway alleged by Claimant. Respondents maintained that they should not bear the risk of legitimate market fluctuations and unforeseeable market conditions. Respondents maintained that Kalkut's recommendation to Claimant to invest in Jamesway was made in good faith and was based on the best research material available at the time of recommendation.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$12,182.00, punitive damages, interest and costs.

Respondents requested that Claimant's Statement of Claim be dismissed in all respects and that all costs of these proceedings be assessed against Claimant.

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.

The panel also ruled on December 23, 1991 that no further submissions by either party would be accepted into the record.

AWARD

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

1. That Claimant's claim is denied in its entirety.
2. That Claimant's claim for punitive damages is denied in its entirety.
3. That the respective parties shall bear their costs including attorneys' fees.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Panel has determined that all forum fees are assessed against the Claimant. Therefore the six (6) hearing sessions held at \$400 per session and the pre-hearing conference held at \$300 is assessed against Claimant for a total forum fee assessment of \$2700. Claimant is entitled to offset this amount with his hearing session deposit of \$400 so that the amount due from Claimant as forum fees is \$2,300.

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

Concurring Arbitrator's Signature:

Name

Public/Industry



Joseph J. Arata, Esq./Chairman

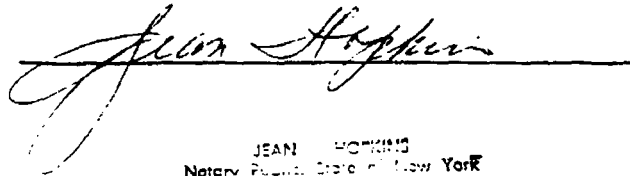
Public Arbitrator

Date of Decision: February 28th, 1992

STATE OF: New York
COUNTY OF: New York

S.S.:

On this day of *FEBRUARY*, 1992, before me personally appeared **Joseph J. Arata, Esq.** known and known to me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.



JEAN HOPKINS
Notary Public, State of New York
No. 4140000099
Qualified in Queens County
Certificate filed in New York County
Commission Expires *5-31-93*

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Concurring Arbitrator's Signature:

Name

Public/Industry


David Nydick

Public Arbitrator

Date of Decision: February 28th, 1992

STATE OF: New York
COUNTY OF: New York

S.S.:

On this 6th day of February, 1992, before me personally appeared David Nydick known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same.

Ruth Hermele

RUTH HERMELE
Notary Public, State of New York
No. 4807368
Qualified in Nassau county 1/31/93
Commission Expires _____

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Concurring Arbitrator's Signature:

Name

Public/Industry


Seymour Roberts

Industry Arbitrator

Date of Decision: February 28th, 1992