

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Steven J. Clementi

vs.

91-00573

Name of Respondents

Richard Wynkoop,
Richard Sacks
Sacks Investment Company, Inc.

REPRESENTATION

For Claimant: Steven J. Clementi

For Respondent: Richard Wynkoop - William Ziering, San Francisco, California.
For Respondents: Richard Sacks and Sacks Investment Company, Inc. - Richard
Sacks Ziering.

CASE INFORMATION

Statement of Claim filed: February 21, 1991

Claimant's Submission Agreement signed on: October 18, 1989

Statement of Answer filed by Respondent Wynkoop on: October 30, 1991
Statement of Answer filed by Respondent Sacks on: January 14, 1992

Respondent Wynkoop Submission Agreement signed on: February 14, 1992
Respondent Sacks Submission Agreement signed on: January 10, 1992

HEARING INFORMATION

Prehearing Conference Date/Sessions: None

Hearing Date/Sessions: February 14, 1992 (2 sessions)
March 2, 1992 (2 sessions)

Hearing Location: San Francisco, California

CASE SUMMARY

Claimant alleged lack of suitability, excessive trading in the purchase of Specialized System (KDII) and sale of Wordstar (WDST).

Respondents Wynkoop and Sacks denied all substantive allegations of the Statement of Claim.

RELIEF REQUESTED

Claimant requested:

1. Compensatory damages of \$66,449.72; and
2. Cost of Arbitration proceedings.

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.

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. Respondents are jointly and severally liable and shall pay Claimant the sum of \$36,000 in compensatory damages, apportioned as follows:

- a. 75%, equaling \$27,000, to be paid by Respondent Wynkoop; and
- b. 25%, equaling \$9,000, to be paid by Respondent Sacks and Sacks Investments Co., Inc.

2. Respondents are jointly and severally liable and shall pay to Claimant the sum of \$6,300.00 in interest, apportioned as follows:

- a. 75%, equaling \$4,725.00, to be paid by Respondent Wynkoop; and
- b. 25%, equaling \$1,575.00, to be paid by Respondents Sacks and Sacks Investment Co., Inc.

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

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following forum fees are assessed: The NASD shall refund the \$500.00 hearing session deposit previously deposited by the claimant. Forum Fees assessed against: Respondents, jointly and severally, apportioned as follows:

- 1) Against respondent Wynkoop, 75% of \$2,000, equaling \$1,500;
- 2) Against respondent Sacks and Sacks Investment Co., Inc. 25% of \$2,000, equaling \$500.00;
- 3) Against respondent Wynkoop, 75% of the \$150.00 non-refundable fee, equaling \$112.50, to be paid to claimant; and
- 4) Against respondents Sacks and Sacks Investment Co., 25% of the \$150.00 non-refundable filing fee, equaling \$37.50, to be paid to claimant.

calculated as follows: four prehearing session times the hearing deposit of \$500, equaling \$2,000, plus the \$150.00 for claimant's non-refundable filing fee.

Fees are payable to the National Association of Securities Dealers, Inc., except for the \$150.00 non-refundable filing fee, to be paid directly to claimant.

ARBITRATION PANEL

Name
Franklin Silver

Public/Industry
Public
Public
Industry

Concurring Arbitrators' Signature


Franklin Silver

DATE SERVED: 03/16/92

Date of Decision: 3/12/92