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N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Michael Kane

91-03227

Name of Respondents

Chatfield Dean & Co.
James Padgett
Francois A. Fischer

REPRESENTATION

Claimant Michael Kane ("Claimant") was represented by Charles O'Rourke, Esq. of the Law Offices of Charles O'Rourke.

Respondent Chatfield Dean & Co. ("Chatfield") was represented by Stephen F. Kappick of Lohf, Shaiman & Ross.

Respondent James Padgett ("Padgett") was represented by John McBride, Esq. of the law firm of Hart & Trinen.

Respondent Francois A. Fischer ("Fischer") appeared pro se.

CASE INFORMATION

Claimant's Statement of Claim filed on: October 4, 1991.

Claimant's Submission Agreement signed on: August 27, 1991.

Statement of Answer filed by Respondent Padgett on: February 14, 1992.
Respondent Padgett's Submission Agreement signed on: February 6, 1992.

Respondents Chatfield and Fischer did not submit an Answer nor did they submit a Submission Agreement.

Motion to Dismiss of Respondent Chatfield was filed on: December 19, 1991.

Claimant's Opposition to Respondent Chatfield's Motion to Dismiss filed on: January 27, 1992.

HEARING INFORMATION

Hearing Dates/Sessions: September 1, 1992, 2 sessions
September 2, 1992, 2 sessions

Hearing Location: NASD offices located in New York, New York.

CASE SUMMARY

Claimant alleged that on or about October 16, 1990, Claimant purchased 2000 shares of Arcus, Inc. and then on October 31, 1990, Respondent Fischer solicited Claimant to purchase 5000 shares of Arrow Electronics at \$4 per share and Claimant instructed Respondent Fischer to sell his Arcus position but Respondent Fischer insisted Claimant to stay in Arcus and buy more Arcus stock and Respondents failed to execute Claimant's sell order. Claimant further alleged Respondents made unauthorized trades, engaged in material misrepresentations and omissions, violated state and federal securities laws. Claimant further alleged Stuart James was in the process of liquidation and Respondent Chatfield was in the process of purchasing the accounts and assets of Stuart James.

Respondent Padgett alleged that he was not in any way involved in these transactions and asserted the following defenses: statute of limitations, ratification, waiver, estoppel, failure to mitigate damages and Claimant's own lack of due diligence.

Respondent Chatfield maintained in their Motion to Dismiss that the claims are unrelated to transactions through Chatfield and Chatfield is not a successor interest in Stuart James.

Claimant maintained in his response to Respondent Chatfield's Motion to Dismiss that denials of allegations should not be sufficient grounds to grant a Motion to Dismiss.

RELIEF REQUESTED

Claimant requested \$52,000 in compensatory damages and filing fees, forum costs, expenses and attorneys' fees.

Respondents Chatfield and Padgett request all claims be dismissed

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. All claims by Claimant be and hereby are dismissed against Respondents. Although the Panel is of the opinion liability exists, no liability rests with the named Respondents.
2. Each party shall bear their respective costs including attorneys' fees.

FORUM FEES

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

4 sessions x \$500 = \$2000 less \$500 hearing session deposit = \$1500 net due.

Respondent Chatfield be and hereby is liable and shall pay to the NASD, Inc. the sum of \$1000 to represent forum fees.

Claimant be and hereby is liable and shall pay to the NASD the sum of \$500 to represent forum fees.

The NASD shall retain the \$150 filing fee and \$500 hearing session deposit previously deposited by the Claimant.

Concurring Arbitrator's Signature:

Name

Public/Industry


Paul E. Barr

Industry Arbitrator

DATE OF DECISION: September 15, 1992

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Name

Public/Industry

William A. Mechmann

Public Arbitrator

DATE OF DECISION: September 15, 1992

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Name

Public/Industry

Robert Herschmann, Esq./Chairman

Public Arbitrator

DATE OF DECISION: September 15, 1992