

NATIONAL ASSOCIATION OF SECURITIES DEALERS

National Association of
Securities Dealers, Inc.
NASD Financial Center
33 Whitehall Street
New York, N.Y. 10004
FAX (212) 858-4389

In the Matter of the Arbitration Between

Name of Claimants

Gerald R. and Joan Sloane

91-03667

Name of Respondents

Spear, Leeds & Kellogg
Kenneth Pasternak

REPRESENTATION

For Claimants: David W. Schmidt, Esq., a sole practitioner.

For Respondents, Spear, Leeds & Kellogg and Kenneth Pasternack: Thomas J. McCabe, Esq. a sole practitioner.

CASE INFORMATION

Statement of Claim filed: November 18, 1991.

Claimant, Gerald R. Sloane's Submission Agreement signed on: November 8, 1991.

Claimant, Joan Sloane's Submission Agreement signed on: November 7, 1991.

Statement of Answer filed by Respondents Spear, Leeds & Kellogg and Kenneth Pasternack on: December 31, 1991.

Respondent, Spear, Leeds & Kellogg, did not submit an original Submission Agreement.

Respondent, Kenneth Pasternack, did not submit an original Submission Agreement.

HEARING INFORMATION

Hearing Date/Sessions: August 5, 1992 - Two Sessions.

Hearing Location: NASD, Inc. - New York, NY.

CASE SUMMARY

Claimants alleged that Respondent, Kenneth Pasternack ("Pasternack"), recommended the purchase of a certain stock, The Ironstone Group, Inc. ("Ironstone"). Claimants alleged that Pasternack failed to disclose that he held a significant position in the stock. Claimants alleged that when they later requested Pasternack to sell their position, he strongly discouraged them from doing so. Claimants alleged that Pasternack was in the process of liquidating his own position in the stock. Claimants alleged that they made repeated requests to Pasternack to sell the stock as the price fell, and were continually assured that it would be inappropriate to sell. Claimants alleged that they finally sold the stock at a loss.

Respondents maintained that Claimant, Gerald Sloane, was Pasternack's accountant and was fully aware of Pasternack's position in Ironstone. Respondents maintained that on the basis of that knowledge, and without any specific recommendation from Pasternack, Claimants purchased Ironstone for their accounts.

Respondents maintained that Pasternack continuously made markets as a buyer or seller of Ironstone and held a position in Ironstone in his personal account. Respondents maintained that there came a time when Pasternack sold his shares to raise funds for an outside investment. Respondents maintained that this outside investment was revealed to Gerald Sloane when he prepared Pasternack's tax returns. Respondents denied that Pasternack discouraged the selling or recommended the holding of Ironstone.

RELIEF REQUESTED

Claimants requested actual damages in the amount of \$27,562.50 and punitive damages in the amount of \$20,000.00 plus attorney's fees.

Respondents denied any liability to the Claimants as a result of their investment loss and requested that such a determination be made, and requested that the costs of this action be assessed against the Claimants.

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.

Pursuant to the by-laws of the NASD, the arbitrators determined that Spear, Leeds & Kellogg and Kenneth Pasternack were required to submit to this arbitration, notwithstanding their failure to submit executed Submission Agreements. Therefore, Spear, Leeds & Kellogg and Kenneth Pasternack are bound by this panel's rulings and determinations.

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 Statement of Claim is hereby dismissed in its entirety.
2. Each party shall bear their respective costs of this action, including attorney's fees.

FORUM FEES

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

Non-refundable filing fee: \$120.00
Hearing Session Fees: \$800.00 (2 Sessions x \$400.00)

1. Forum fees in the amount of \$920.00 are hereby assessed against the Respondent, Spear, Leeds, & Kellogg (SLK). Respondent, SLK is hereby directed to re-imburse to the Claimants the amount of \$700.00 (SEVEN HUNDRED DOLLARS) Claimants previously deposited with the NASD. Respondent, SLK is further directed to pay the balance of \$220.00 (TWO HUNDRED TWENTY DOLLARS) to the NASD.
2. The panel has granted the Claimants' application for waiver of the postponement fee of \$400.00. Accordingly, Claimants shall be refunded the amount of \$400.00.

Concurring Arbitrator's Signature
Michael G. Shannon, Esq.

Public Chariperson

Michael G. Shannon

Date of Decision September 18, 1992

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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:

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Concurring Arbitrator's Signature
William Tanner



Public Arbitrator

Date of Decision September 18, 1992

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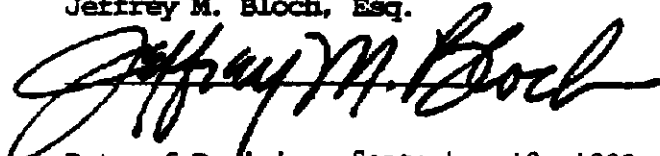
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Concurring Arbitrator's Signature
Jeffrey M. Bloch, Esq.



Date of Decision September 18, 1992

Industry Arbitrator
