

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Edmond R. Davis, Trustee
of the Alyson Long Trust
and the Jeffrey John Long Trust;

Robert J. Long, Trustee
of the Robert John Long Trust

NASD Arbitration
No.92-00651

Name of Respondent(s)

Kidder, Peabody & Co., Inc.
T. Samuel Coleman

REPRESENTATION

For Claimants: H Thomas Fehn, Esq., Fields, Fehn & Sherwin, Los Angeles,
California

For Respondents: William H. Phelps, Esq., Kidder, Peabody & Co., Inc., Los
Angeles, California

CASE INFORMATION

Statement of Claim filed: February 24, 1992

Claimants' Submission Agreements signed:

Edmond R. Davis, Trustee:	January 31, 1992
Robert J. Long, Trustee:	February 3, 1992

Joint Answer filed by Respondents: April 29, 1992

Respondents' Submission Agreements signed:

Kidder, Peabody: April 28, 1992

T. Samuel Coleman: April 28, 1992

HEARING INFORMATION

Pre-hearing telephone conference date / sessions:

June 14, 1993 - 1 session

Hearing dates / sessions:

June 22, 1993 - 2 sessions

June 23, 1993 - 2 sessions

Hearing Location: Los Angeles, California

CASE SUMMARY

Claimants alleged churning, misrepresentation and breach of fiduciary duty arising out of investments in common stocks and other securities in the trust accounts at issue.

Respondents denied all allegations of wrong-doing and asserted that Claimant trustees were experienced, sophisticated investors who approved and ratified all transactions prior to investing.

Respondents asserted a counterclaim for indemnification and contribution against Claimant trustees based on the trustees' fiduciary obligations to the trusts.

RELIEF REQUESTED

Claimants requested damages of \$1,725,000.00 plus punitive damages, costs of arbitration and attorneys' fees.

Respondents requested dismissal of all claims, and an award against Claimant Trustees for indemnity and contribution in an amount equal to any award made on Claimants' claims.

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 for and shall pay to Robert J. Long, as Trustee of the Robert John Long Trust, the sum of \$343,000.00 inclusive of interest.
2. Respondents are jointly and severally liable for and shall pay to Edmond R. Davis, as Trustee of the Jeffrey John Long Trust, the sum of \$16,900.00 inclusive of interest.
3. Respondents are jointly and severally liable for and shall pay to Edmond R. Davis, as Trustee of the Alyson Long Trust, the sum of \$46,900.00 inclusive of interest.
4. The claims for punitive damages are denied.
5. The counterclaim for indemnity and contribution asserted by Respondents is dismissed.
6. The parties shall each bear their respective costs, including attorney's fees.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the NASD shall refund the \$1,000.00 hearing session fee previously deposited by Claimants.

Respondents are jointly and severally liable for all forum fees, as follows:

One pre-hearing telephone conference @ \$300/session	=	\$ 300.00
4 hearing sessions @ \$1,000/session	=	\$4,000.00
<u>Credit for deposit</u>	=	<u>\$1,000.00</u>
Balance due		<u>\$3,300.00</u>

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

ARBITRATORS

<u>Name</u>	<u>Public/Industry</u>
Bernard Segelin	Public Chairperson
James V. Lamb	Public Panelist
John P. McShane	Industry Panelist

Concurring Arbitrators' Signatures

Bernard Segelin, Public Chairperson

Date of Decision: June 23, 1993

Date Served: 07/28/93