

PUBLIC

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between :

Capital Investment Group, Inc. :

Claimant :

vs. :

Weeks Worsley :

Respondent :

CASE #92-01130-
AWARD

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on March 31, 1992, Claimant, Capital Investment Group, Inc. by and through Hal Eddins, alleged that on December 20, 1991, Hal Eddins, Assistant Vice President, was contacted by Respondent, Weeks Worsley when he was referred to Claimant by another good client, at which time, Respondent instructed Mr. Eddins to sell 1,500 shares of PUBCO and send him a check on settlement day for the net amount. Claimant further alleged that Mr. Eddins forwarded their W9/Customer Agreement as well as a Corporate Resolution and subsequently, on December 27, 1991 Respondent returned the forms to Claimant along with the shares of PUBCO. Claimant contended that the 1,500 shares of PUBCO had been sold on December 20, 1991 as instructed by Respondent at \$4 3/4 a share and a check was mailed to him on settlement, December 30, 1991. Claimant further contended that when the transfer agent received the shares, it was discovered that PUBCO had declared a one for twenty reverse split in August, 1990, which changed the number of shares Respondent owned from 1,500 to 75, thus, creating a short position of 1,425 shares of PUBCO. Claimant asserted that on January 8, 1992 they notified Respondent of his error and subsequently, Claimant was forced to cover the short position at an increased price of \$6. Claimant further asserted that Respondent has failed to return the funds sent to him and has failed to cover the short position, although duly demanded. Claimant further maintained that the rules state that Respondent, as the customer, must know what he owns and whether Respondent actually intended to deceive Claimant, he is responsible for the loss.

Respondent, Weeks Worsley, who appeared Pro Se, maintained that through the recommendation of a friend he contacted Hal Eddins, Assistant Vice President of Claimant, Capital Investment

Group, Inc. to inquire about selling his 1,500 shares of PUBCO and 1,000 shares of Medical Dynamics that he had held since 1985. Respondent further maintained that he informed Claimant's Assistant Vice President, Hal Eddins, that he originally held 1,000 shares of Medical Dynamics but now held 40 shares due to a reverse split, at which time, Claimant informed him they would have to see if there was a buyer for his PUBCO and Medical Dynamics stock. Respondent contended that Claimant, by and through Hal Eddins, advised him he had a buyer and Respondent provided Claimant with the cusip numbers on the certificates, at which time, Claimant sold the stock and advised Respondent that he should send them the certificates, in addition to signing papers. Respondent further contended that Claimant received the certificates with the paperwork on December 27, 1991 prior to the settlement date of December 30, 1991 and subsequently, Respondent received his check on January 3, 1992 for the sale of the stock. Respondent asserted that on January 8, 1992 Claimant notified him of the reverse split of PUBCO and of the short position it created, at which time, he advised Claimant that he was unaware of any reverse split and contacted PUBCO Corporation, whereby they informed him that they had changed cusip numbers on their certificates, in addition to, advising Moody's and Standard and Poors of the reverse split, therefore, Claimant should have been aware of the reverse split. Respondent further asserted that if Claimant had advised him of the reverse split, he never would have sold the PUBCO stock. Respondent further maintained that Claimant failed to advise him that they were covering the short position until they had done so and Respondent is not liable for the short position due to the fact that Claimant failed to discover the PUBCO reverse split.

RELIEF REQUESTED

Claimant, Capital Investment Group, Inc. requested \$8,653.85 in actual damages plus reimbursement of the NASD filing fee.

Respondent, Weeks Worsley requested that the claim be dismissed or in the alternative, he be responsible for half of the \$6,872.60 in proceeds.

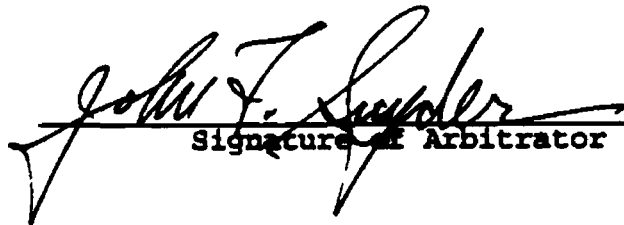
AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, John F. Snyder, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on April 6, 1992 and by the Respondent on May 6, 1992.

1. Respondent, Weeks Worsley is liable and shall pay to the Claimant, Capital Investment Group, Inc. the sum of \$8,653.85 in damages.
2. The parties shall bear their respective costs.
3. The \$575.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant, Capital Investment Group, Inc. shall be retained by the NASD, Inc. Respondent, Weeks Worsley is liable and shall pay to the Claimant the sum of \$575.00 as reimbursement.

AFFIRMATION

I, JOHN F. SNYDER, ESQ., do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.



Signature of Arbitrator

DATE OF DECISION ~~1992~~

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