

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC. **RECEIVED**

In the Matter of the Arbitration Between

Name of Claimant

Donald W. Douthit

and

Name of Respondents

The Principal/Eppler Guerin & Turner, Inc.
and Tom E. Sears, III

JAN 20 1993

92-01824

REPRESENTATION OF PARTIES

Claimant Donald W. Douthit was represented by Joe B. Abbey, Esq. of Dallas Texas.

Respondents The Principal/Eppler Guerin & Turner, Inc. and Tom E. Sears, III were represented by David B. Dyer, Esq. of Jenkins & Gilchrist, Dallas, Texas.

CASE INFORMATION

The Statement of Claim was filed on or about June 2, 1992. Claimant's Submission Agreement was signed on May 14, 1992.

Statement of Answer was filed by Respondents The Principal, Eppler Guerin & Turner, Inc. and Tom E. Sears, III on or about August 10, 1992. Submission Agreement of Respondent The Principal/Eppler Guerin & Turner, Inc. was signed on August 5, 1992 by James W. Massie, III. Submission Agreement of Respondent Tom E. Sears, III was signed on July 22, 1992.

HEARING INFORMATION

The hearing was held on Tuesday, January 12, 1993 in Dallas, Texas for a total of two (2) sessions.

CASE SUMMARY

Claimant alleged that Respondents The Principal/Eppler Guerin & Turner, Inc. and Tom E. Sears, III ("Respondents") engaged in churning, unsuitable investments, fraudulent concealment of material facts, negligence, violations of NASD rules, breach of fiduciary duty and breached the implied covenant of good faith and fair dealing. Claimant specifically alleged that Respondent Sears bought and sold shares of Cray Computer three times in three months, moved the account in and out of Summit Technology, Inc.,

traded options and charged excessive commissions on the trades in Off. Stores, DSC Commun., Exp. Co. LA and Ultrak, Inc.

Respondents stated that the Claimant's account was a non-discretionary account, that Respondent Sears did not exercise discretion in the account, and that the Claimant authorized in advance all trades including purchases and liquidations. Respondents denied the allegations set forth in the Statement of Claim and that the Claimant was an experienced investor and had access to financial information independent of Respondents. Respondents also asserted the affirmative defense of failure to mitigate.

RELIEF REQUESTED

Claimant requested a joint and several award against Respondents in the amount of \$55,865.00, pre and post award interest at the maximum legal rate from the date of the original investment, costs, fees, including witness and attorney's fees, and punitive damages in an amount to be determined by the arbitrators.

Respondents requested that the claims be dismissed and that the Claimant be assessed costs and expenses.

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 original(s) 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 The Principal/Eppler Guerin & Turner, Inc. and Tom E. Sears, III shall be and hereby are jointly and severally liable for and shall pay to the Claimant Donald W. Douthit the sum of \$10,000.00 (ten thousand dollars).
2. Each party shall bear its own costs, expenses and attorney's fees incurred in this matter not specifically enumerated herein.

FORUM FEES

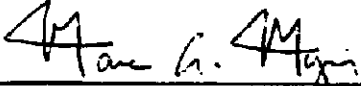
Pursuant to Section 43(c) of the NASD Code of Arbitration

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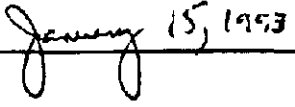
Procedure, the National Association of Securities Dealers, Inc. ("NASD") shall retain the non-refundable filing fee in the amount of \$150.00 and shall retain as forum fees the hearing session deposit in the amount of \$500.00 previously deposited with the NASD by the Claimant. Respondents The Principal/Eppler Guerin & Turner, Inc. and Tom E. Sears, III shall pay to the NASD the sum of \$500.00 as additional forum fees.

Forum fees are calculated at the rate of \$500.00 per hearing session and \$300.00 for each prehearing conference, if any. Fees are payable to the National Association of Securities Dealers, Inc.



Marc A. Myrin, Esq.
Presiding Chair
Public Arbitrator

Dated:



January 15, 1993

Joe S. Sheppard
Public Arbitrator

Wade J. McGee
Industry Arbitrator

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Dated:

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Presiding Chair
Public Arbitrator

Joe S. Sheppard
Joe S. Sheppard *SHEPHERD*
Public Arbitrator

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1/14/93

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