

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Anthony Granelli

92-02301

Name of Respondents

J.W. Gant and Associates, Inc.:

Kurt Novey;

Robyn Reagan

REPRESENTATION

For Claimant: Anthony Granelli was represented by Lawrence H. Packard III, Esq. of Lake Jackson, Texas.

For Respondents: J. W. Gant and Associates, Inc. did not appear at hearing.

Kurt Novey was represented by David A. Zisser, Esq. of Berliner Boyle Kaplan Zisser & Walter, P.C., located in Denver, Colorado.

Robyn Reagan was represented by Thomas D. Birge, Esq. of Brega & Winters, P.C., located in Denver, Colorado.

CASE INFORMATION

Statement of Claim filed: July 13, 1992.

Claimant's Submission Agreement signed on: July 20, 1992.

Claimant's Amendment to the Statement of Claim filed: November 10, 1992.

Statement of Answer filed by Respondent Kurt Novey on: August 28, 1992.

Statement of Answer filed by Respondent Robyn Reagan on: October 2, 1992.

Respondents Kurt Novey and Robyn Reagan did not file executed Submission Agreements.

Respondent J. W. Gant and Associates, Inc. did not file a Statement of Answer or an executed Submission Agreement.

HEARING INFORMATION

Pre-Hearing Conference: None Held.
Hearing Date/Sessions: January 13, 1993 for Two (2) sessions.

Hearing Location: Houston, Texas

CASE SUMMARY

Claimant Anthony Granelli ("Granelli") alleged that Respondents Robyn Reagan ("Reagan") and Kurt Novey ("Novey"), while employed by or acting as agents for Respondent J.W. Gant & Co., Inc. ("J.W. Gant"), fraudulently misrepresented the bid and ask price of certain common stocks and the potential gain in order to build commissions. In addition, Granelli alleged that Novey continued to misrepresent the status and future of the stock in order to forestall legal action.

Reagan denied the material allegations of the Statement of Claim, alleging that she always gave Granelli the bid and ask prices on his investments, and what the spread meant in relation to his investments. In addition, Reagan alleged that Granelli understood his investment objectives of growth with risk, he was not pressured into doing any transactions, and that Granelli failed to hold the investments for six to nine months as she recommended.

Novey denied the material allegations of the Statement of Claim, alleging that he never advised Granelli that he would get his money back, but that he did advise him of a 25 to 1 reverse stock split in one of the stocks held by Granelli, a statement that was true and a matter of public record. Novey denied engaging in any wrongdoing that in any way caused Granelli economic loss.

RELIEF REQUESTED

Claimant Granelli requested that the panel enter an award against Respondents in the sum of \$30,442.15. In the Amended Statement of Claim, Granelli added a request for reasonable attorneys' fees.

Respondent Reagan did not specify a relief request as part of her Statement of Answer, but at

hearing requested that the Statement of Claim be dismissed in its entirety.

Respondent Novey did not specify a relief request in his Statement of Answer, but at hearing requested that the claims asserted against him be dismissed.

OTHER ISSUES CONSIDERED & DECIDED

Respondent J. W. Gant & Associates, Inc. did not file a Statement of Answer or an executed submission agreement, and did not appear at the hearing. However, upon review of the testimony and the Notices on file with the NASD, the panel has determined that J. W. Gant was properly served with the Statement of Claim and Notice of the Hearing pursuant to the NASD Code of Arbitration Procedure. In addition, as a NASD member firm at the time the transactions at issue occurred, J. W. Gant is required to submit to arbitration pursuant to Section 12 of the NASD Code of Arbitration Procedure.

Respondents Reagan and Novey did not file properly executed submission agreements, but appeared and testified at the hearing, and as associated persons under the NASD Code of Arbitration Procedure, are required to submit to arbitration pursuant to Section 12 of the NASD Code of Arbitration Procedure.

At the close of Claimant's case, Respondent Novey orally presented a Motion to Dismiss the claim against himself. After hearing argument on the issue, the panel determined that the Motion would be denied.

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 pleading, 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 and denied in its entirety;
2. The parties shall bear their own costs of arbitration, including attorneys' fees, except for those specifically enumerated herein.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed: Two (2) hearing sessions x \$400.00 per hearing session = \$800.00.

The National Association of Securities Dealers, Inc. shall retain the \$120.00 claim filing fee and refund the \$400.00 hearing session deposit previously deposited by the Claimant, Anthony Granelli. Respondent J.W. Gant & Associates, Inc. is liable for and shall pay to the NASD forum fees in the sum of \$800.00.

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

Concurring Arbitrators' Signatures

Name:

Date:

Eugene Clements, Esq.
Eugene Clements, Esq.
Public Arbitrator
Chairperson

May 20, 1993

Michael E. McGown, Esq.
Michael E. McGown, Esq.
Public Arbitrator

May 10, 1993

Frederick T. Cater
Frederick T. Cater
Industry Arbitrator

May 12, 1993

Date of Service on Parties: 5-26-93