

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Donald Breckle

v.

92-02377

Name of Respondents

D.H. Blair & Company
Stratton Oakmont, Inc.
Jordan Belfort

REPRESENTATION

For Claimant: Donald Breckle ("Breckle"), Craig W. Horn, Esq., from the law firm of Braun, Kendrick, Finkbeiner et al.

For Respondent, D.H. Blair & Co., Inc. ("Blair"), Stuart Summit, Esq. from the law firm of Phillips Nizer Benjamin Krim & Ballon.

For Respondents Stratton Oakmont, Inc. and Jordan Belfort, Jacob H. Zamansky, Esq., from the law firm of Skadden, Arps, Slate, Meagher & Flom

Statement of Claim was filed on: July 16, 1992.

Claimant's Submission Agreement was signed on: July 15, 1992.

Reply to Counterclaim by Stratton and Belfort was filed on: November 3, 1992.

Reply to Counterclaim by Blair was filed on: October 30, 1992.

Joint Statement of Answer and Counterclaim was filed by Stratton and Belfort on: October 19, 1992.

Stratton's Submission Agreement was signed on: November 19, 1992.

Belfort's Submission Agreement was signed on: November 30, 1992.

Blair's Statement of Answer and Counterclaim was
filed on: October 21, 1992.

Blair's Submission Agreement was signed on: October 20, 1992.

HEARING INFORMATION

Pre-hearing Conferences: August 11, 1993 - 1 Session
June 11, 1993 - 1 Session

Hearing Dates/Hearing Sessions: August 16, 1993 - 2 Sessions
August 17, 1993 - 2 Sessions

Hearing Location: Hilton Garden Inn, 26000 American Drive, Southfield, MI 48034

CASE SUMMARY

Claimant alleges that he received a telephone call from Mark Hanna ("Hanna") who identified himself as a Vice President of Stratton and proceeded to implore Claimant to continue doing business with Stratton. Claimant alleges that Hanna told him that he would make up for Claimant's prior mistreatment by letting claimant in on a special offering that was only being made to selected customers. Claimant alleges that the special offering was a bridge loan to Yankee Stores, Inc. ("Yankee"), coupled with warrants. Claimant alleges that Hanna made the following misrepresentations to claimant: (a) that the loan would be a good way to earn 10% interest per annum for about 90 days; (b) that the loan would be repaid from the proceeds of a public stock offering being handled by Blair; (c) that the stock offering was as close to a "done deal" as he had ever seen; and that the transaction involved only a "slight risk". Claimant alleges that Hanna made other misrepresentations to him. Claimant further alleges that he is retired and is an unsuitable investor for Yankee. Claimant alleges that Blair as placement agent knew or should have known that Stratton was (a) recommending the Yankee to Claimant, for whom they were unsuitable; (b) sending out to claimant an unnumbered and unaddressed term sheet describing the offering, which only constituted an offer if numbered; (c) advising claimant to send his money and subscription agreement immediately and without an adequate opportunity to evaluate the investment.

Claimant alleges that Stratton's conduct violated the suitability rule of the NASD and applicable federal and state securities laws and that Blair as the placement agent of the securities received and accepted Claimant's funds and subscription and therefore is jointly and severally liable with Stratton as seller.

Stratton and Belfort ("Respondents") denies each and every allegation contained in the statement

of claim which gives rise to liability. Respondents maintains that the statement of claim fails to state a claim upon which relief can be granted; that the claims are barred by the applicable Statute of Limitations; that claimant's claims are barred by the doctrine of in pari delicto; that claimant's claims are barred by the doctrine of laches; that claimant's claims are barred by the doctrine of waiver and ratification and estoppel. Respondents counterclaim claims that this action by claimant has subjected Respondents to substantial loss and damage by, among other things; requiring them to incur substantial cost and disbursements, including attorneys' fees and divert substantial amounts of time of their executive and administrative personnel from business matters to the defense of this action. By reason of the foregoing, claimant has breached the representations, warranties and assurances which he made in the subscription agreement and the questionnaire, all to the damage of respondents in an amount not presently ascertainable, but which is not less than \$50,000.00.

Respondent Blair generally denies the allegations of unsuitability and violations of federal and state securities laws, rules and regulations. Blair maintains that it had no contact whatsoever with the claimant, and denies knowledge or information sufficient to form a belief as to the allegations of what, if anything, Stratton recommended, sent or misrepresented to the claimant. Blair further denies that it had knowledge of, or gave consent or authorization to, the statements allegedly made to claimant in connection with the offering. Accordingly, Blair maintains that the Statement of Claim with regard to Blair should be dismissed in all respects. Blair further maintains that the Statement of Claim fails to state a claim against respondent upon which relief may be granted; the claims asserted in the statement of claim by claimant are barred by the applicable statutes of limitations. Respondents maintain that the lack of privity between respondent and claimant bars claimant from seeking recovery against respondent.

Blair in a counterclaim requests costs of defending this action and/or require claimant to indemnify respondent as to any liability, cost or expense incurred by respondent in this action.

Claimant responded to Stratton and Belfort's counterclaim by asserting that claimant did not affirmatively warranted, acknowledged, recognized or represented any facts to respondents in addition to or which conflicted with the facts elicited by Stratton's Hanna. Claimant requested as relief that respondent's counterclaim be dismissed.

Claimant responded to Blair's counterclaim by maintaining that the counterclaim is wholly without merit and must be dismissed in its entirety.

RELIEF REQUESTED

1. Claimant requests an award of \$250,000.00 plus interest, costs and attorneys' fees.
2. Respondents' counterclaim be dismissed.

3. Respondent Blair requests that the instant claims be dismissed in all respects and that respondent be awarded attorneys' fees, costs and expenses incurred in the defense of the instant claims and/or require claimant to indemnify respondent as to any liability, costs or expense incurred by respondent in this action and that respondent be awarded such other and further relief is deemed just and proper.

4. Respondents Stratton and Belfort requests damages and liability incurred by them as the result of Claimant's breach of the representations, warranties and assurances contained in the subscription agreement including, the costs of disbursements of this action, including attorneys' fees and the monetary value of the time of Respondents' executive and administrative personnel which was diverted from normal business duties to the defense of this action, in an amount not presently ascertainable, but which is not less than \$50,000.00 and awarding to respondents their costs and disbursements of this action.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed to receive conformed copies of the award while the original remain on file with the NASD.

Respondent Blair requests an extension to the statement of claim. The claimant did not object to the extension and the NASD, Inc. granted the extension.

Respondents Stratton and Belfort requested an extension to answer the Statement of claim. The claimant did not object to the extension and the NASD, Inc. granted the extension.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrators has decided in full and final resolution of the issues submitted for determination as follows:

1. Stratton shall pay Claimant \$25,000.00.
2. Breckle shall pay Blair \$20,000.00 on the issues presented in Blair's counterclaim.
3. Stratton's counterclaim is denied in its entirety.

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

Non-refundable filing fee for claim:

\$ 200.00


Non-refundable filing fee for Stratton's and Belfort's crossclaim:	\$ 500.00
Non-refundable filing fee for Blair's Crossclaim:	\$ 500.00
August 11, 1993 pre-hearing conference:	\$ 750.00
Hearing Session fees of \$750.00 X 4 Sessions	\$3,000.00
TOTAL	\$4,950.00

1. Claimant shall pay 1/2 the cost of the arbitration proceedings.
2. Respondents Stratton and Belfort shall jointly and severally pay for 1/2 of the cost of the arbitration proceeding.
 - A. Claimant shall pay the NASD the sum of \$2475.00, to be offset by the \$750.00 initial hearing session deposit and the \$200.00 filing fee already paid to the NASD and \$550.00 of Blair's session deposit and filing fee already paid to the NASD. Net Due: \$975.00. Claimant shall, additionally, reimburse Blair \$550, which represents 1/2 of the funds deposited by Blair to the NASD.
 - B. Stratton and Belfort shall, jointly and severally pay the NASD the sum of \$2475.00, to be offset by the \$750.00 initial hearing session deposit and the \$500.00 filing fee already paid to the NASD and \$550.00 of Blair's session deposit and filing fee already paid to the NASD. Net Due: \$675.00. Stratton and Belfort shall jointly and severally reimburse Blair \$550.00, which represents the deposit made by Blair to the NASD.

ARBITRATION PANEL

Concurring Arbitrators' Signatures
Name

Public/Industry



Barry Goldman, Esq.

Public

NASD Date of Award: October 25, 1993

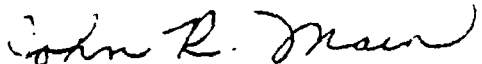
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Public/Industry


John R. Main

Industry

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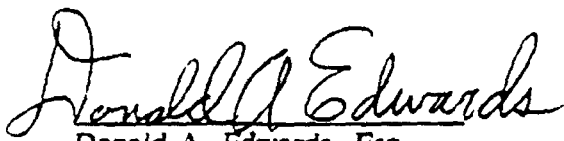
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ARBITRATION PANEL

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Name

Public/Industry


Donald A. Edwards, Esq.

Public