

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

C. Stedman Morris III

92-02570

Name of Respondents

J. Lee Peeler & Co., Inc.
Jonathan Peeler

REPRESENTATION

For Claimant, C. Stedman Morris III ("Morris"): James Luke, CFA and Paul P. Hinkle, Esq.

For Respondents, J. Lee Peeler & Co., Inc. ("Peeler & Co.") and Jonathan Peeler ("Peeler"): Paul K. Sun, Jr., Esq. of Smith, Helms, Mullis & More.

CASE INFORMATION

Statement of Claim filed on August 3, 1992. Claimant's Submission Agreement signed on July 27, 1992.

Respondents, Peeler & Co. and Peeler's, Statement of Answer filed on September 17, 1992. Respondents' Submission Agreement signed on August 24, 1992 by Jonathan Peeler on behalf of himself and J. Lee Peeler & Company, Inc.

HEARING INFORMATION

On August 28, 1993, in Raleigh, N.C., a hearing lasting two (2) sessions was conducted.

CASE SUMMARY

Claimant alleged that upon redemption of his minority stock holding in J. Lee Peeler & Company, Inc. in 1991, he was assessed a charge for a loss relating to

a transaction that was consummated in 1985. Claimant alleged that Respondents' action constituted a wrongful confiscation since he was assessed an inordinately large portion of the loss.

Respondents denied all allegations of wrongdoing and alleged that the allocation of loss was fair and proper, since, it was based on profit and loss sharing agreed upon and outlined in an employment contract between the parties.

Respondents alleged the following affirmative defenses: malfeasance on the part of the Claimant; specific provisions in the employment contract; and the Claimant can not name Jonathan Peeler as an individual Respondent.

RELIEF REQUESTED

Claimant requested an Award of \$12,112,32 plus interest.

Respondents requested dismissal of the Claim.

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 and post hearing submissions (if any), the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent, J. Lee Peeler & Company, Inc., is found liable and shall pay to the Claimant the amount of \$3,821.06, plus interest at the rate of 6% per annum from November 15, 1990 to September 15, 1993 in the amount of \$650.00 for a total due to the Claimant of \$4,471.06.
2. Respondent, Jonathan Peeler, is found not liable and, therefore, all claims against him are hereby dismissed.

OTHER COSTS

The parties shall each bear all costs and expenses incurred by them in connection with this proceeding including attorney's fees.

FORUM FEES

Pursuant to Section 44c of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount of \$1,200.00 (2 sessions x \$600.00).

1. Claimant is hereby assessed \$600.00 for which the NASD shall retain the \$600.00 previously deposited in full satisfaction thereof.
2. Respondent, J. Lee Peeler & Company, Inc. is hereby assessed \$600.00 payable to the National Association of Securities Dealers, Inc.
3. The NASD shall retain the non-refundable filing fee of \$500.00 paid by the Claimant.

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

ARBITRATION PANEL

Concurring Arbitrators' Signatures

Name

Public/Industry

_____/s/
Thomas C. Borthwick

Industry/Chairman

_____/s/
Rudolf Beck

Industry/Panelist

_____/s/
Timothy J. Wright

Industry/Panelist

Date of Decision: October 15, 1993