

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Name of Claimants

Melvin and Karen Fussy

and

92-03885

Name of Respondents

Hayne, Miller & Farni, Inc., William S. Wright, Jr.

REPRESENTATION OF PARTIES

Melvin and Karen Fussy ("Claimants") were represented at the hearing by Richard I. Diamond, Esq. of Diamond & Grady, Minneapolis, Minnesota.

Respondent Hayne, Miller & Farni, Inc. ("Hayne") was represented at the hearing by Gregory J. Stenmoe, Esq. of Briggs and Morgan, Minneapolis, Minnesota. Respondent William S. Wright, Jr. ("Wright") was Pro Se.

CASE INFORMATION

The Statement of Claim was filed on November 16, 1992. Claimant's Submission Agreement was signed on December 10, 1992.

Statement of Answer was filed by Respondent Hayne on March 5, 1993. Statement of Answer was filed by Respondent Wright on or about March 1, 1993. Respondent Hayne's Submission Agreement was signed on or about March 4, 1993. Respondent Wright's Submission Agreement was signed on March 1, 1993.

HEARING INFORMATION

A telephonic pre-hearing conference was held on April 6, 1994 for one session.

The hearing was held on May 3, 1994 for two sessions and on May 4, 1994 for one session in Minneapolis, Minnesota for a total of three sessions.

CASE SUMMARY

Claimants alleged that Respondents Wright and Selander, acting as registered representatives for various brokerage firms, including for Respondent Hayne, recommended and encouraged Claimants to invest in common stocks on margin, calls and other investments in both

their joint account and their individual IRA accounts which were completely unsuited for their investment objectives in violation of State and Federal securities laws and rules of the N.A.S.D.

Respondent Hayne stated in its Answer that Claimants were sophisticated investors and had 20 years prior investment experience. Hayne also stated that the Claimants received prospectuses which advised them of the risks associated with their investments and signed an options agreement which acknowledged the high level of risk they were assuming. Hayne stated that any losses suffered were the result of ordinary market risks assumed by Claimants when they made their investments.

Respondent Wright stated in his Answer that he was the account representative on the Claimant's account from November 1989 through November 1991 and that Selander was former registered representative for the Claimant's account until it was transferred to him by Hayne. Wright stated that Claimant's shared with him how "beat up" their account was as a result of working with Selander. Wright also stated that Claimants were aware of the risks of Angeion Corporation stock but nevertheless purchased shares of its stock.

RELIEF REQUESTED

Claimants requested: 1. On the joint accounts an award of \$127,332.61 plus punitive damages, costs, disbursements, reasonable attorney's fees and interest; 2. On Melvin Fussy's IRA account, an award of \$4,026.84, plus punitive damages, costs, disbursements, reasonable attorney's fees and interest; 3. On Karen Fussy's IRA account, an award of \$10,298.30, plus punitive damages, costs, disbursements, reasonable attorney's fees, and interest; 4. Such other and further relief as the arbitration panel may deem just.

Respondent Hayne requested that the Statement of Claim be denied and that they be awarded their attorney's fees and costs. Respondent Wright requested that the claim be dismissed.

OTHER ISSUES CONSIDERED & DECIDED

Respondents Equity Securities Trading Co., Inc., John G. Kinnard & Co., Inc., L'Argent Securities, Inc., Douglas C. Selander, Sr., and Shatkin-Lee Securities, Inc. were dismissed by the Claimants prior to the hearing and subsequently were removed as parties to the claim.

At the conclusion of Claimant's presentation of their case, counsel for Respondent filed a Motion To Dismiss. The motion was later denied by the panel.

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 N.A.S.D.

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. The claim filed against Respondent William S. Wright, Jr. is denied and he is dismissed from the claim;
2. Respondent Hayne, Miller & Farni, Inc. shall be and hereby is liable for, and shall pay to the Claimants, compensatory damages in the amount of Nineteen Thousand, Four Hundred Eight Five Dollars and Eighty Eight Cents (\$19,485.88);
3. Claimant's request for punitive damages is denied;
4. Claimant's request for interest is denied;
5. Each of the parties shall bear their own costs and expenses, including attorney's fees, other than those specifically enumerated for under Forum Fees below.

FORUM FEES

Forum fees are calculated at the rate of \$750 per hearing session and \$300 for each prehearing conference. There were three hearing sessions \times \$750 = \$2250 plus \$300 for the prehearing conference session minus \$750 hearing session deposit = net \$1800 due.

Pursuant to §43(c) of the N.A.S.D. Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. ("N.A.S.D.") shall retain the non-refundable filing fee in the amount of \$200 and shall retain as forum fees the hearing session deposit in the amount of \$750 previously deposited with the N.A.S.D. by the Claimant.

Postponement fees in the amount of \$750 are assessed against the Claimant as provided for in the memo dated April 4, 1994 from the N.A.S.D.

Fees owed to the N.A.S.D.: Claimants \$1650 and Respondent Hayne, Miller & Farni, Inc. \$900.

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

Dated:



George A. Beck, Esq.
Public Arbitrator, Presiding Chair

July 6, 1994

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Angela R. Banga

Angela R. Banga, Esq.

Public Arbitrator

7/19/94

Wayne H. Peterson

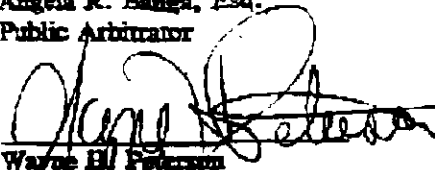
Industry Arbitrator

Date Award Served By The N.A.S.D.:

7-19-94

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Angela R. Banga, Esq.
Public Arbitrator



Wayne H. Peterson
Industry Arbitrator

7/14/94

Date Award Served By The N.A.S.D.: