

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Name of Claimants

H.D. Vest, Inc.,
H.D. Investment Securities, Inc.
and Herb Vest

and

93-00506

Name of Respondent

Kenneth M. Greene

REPRESENTATION OF PARTIES

H.D. Vest, Inc., H.D. Investment Securities, Inc. and Herb Vest ("**Claimants**") were represented by Joseph W. Geary, Esq. of Geary, Porter & West, Dallas, Texas.

Kenneth M. Greene ("**Respondent**") was represented by Raymond G. Wheless, Esq. and Cynthia M. Wheless, Esq. of Wheless & Walker, Plano, Texas.

CASE INFORMATION

The Statement of Claim was filed on or about February 9, 1993. Submission Agreements of Claimants H.D. Vest, Inc. and H.D. Vest Investment Securities, Inc. were signed on by Patricia A. Bellows. Submission Agreement of Herb Vest was signed on February 5, 1993.

Statement of Answer was filed by Respondent on or about May 17, 1993. Counterclaim was filed by Respondent on or about May 17, 1993. First Amended Counterclaim was received by the panel on March 2, 1994. Submission Agreement of Respondent Kenneth R. Greene was signed on May 15, 1993.

HEARING INFORMATION

The hearing was held on Wednesday, March 2, 1994 for two (2) sessions and Thursday, March 3, 1994 for two (2) sessions in Dallas, Texas for a total of four (4) sessions.

CASE SUMMARY

Claimant alleged that Respondent through the bad faith filing of a lawsuit, have engaged in a course of conduct to destroy and/or interfere with the relations Claimants enjoy with the general public and the business community. Claimants also alleged that the Respondent has disseminated false information to the public through the national media. Specifically, Claimants alleged that the conduct of Respondent constituted interference with prospective economic advantage; conspiracy; and defamation.

Respondent stated that the lawsuit was filed in good faith and that he has not disseminated false information to the public. In his First Amended Counterclaim, Respondent alleged that he was terminated from his job because he refused to commit perjury concerning the illegal and improper activities that he observed at H.D. Vest, Inc. during his employment.

RELIEF REQUESTED

Claimants requested an award of actual damages in the amount of more than \$500,000.00; exemplary damages in the amount of \$1,000,000.00; interest on the amount of any award granted calculated from December 23, 1992, the date of filing of the bad faith lawsuit; attorney's fees in the amount deemed by the panel to have been incurred by the Claimants; costs and expenses of court and arbitration found by the arbitrators to have been incurred by Claimants; and such other and further relief to which Claimants may be justly entitled and may be necessary to achieve justice in this matter.

Respondent requested that Claimants take nothing by their Statement of Claim and that Respondent recover all attorney's fees, costs of arbitration and such other and further relief to which the Respondents may be entitled. In the First Amended Counterclaim, Respondent requested an award of damages in the amount of \$500,000.00, punitive damages in the amount of \$1,000,000.00, together with pre-judgment and post judgment interest, attorney's fees, costs of arbitration; and such other and further relief to which Greene may show himself justly entitled.

OTHER ISSUES CONSIDERED & DECIDED

At the commencement of the hearing of this matter, the undersigned arbitrators heard arguments of the parties regarding the Motion to Strike First Amended Counterclaim and **denied** the motion and accepted the First Amended Counterclaim.

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 N.A.S.D.

AWARD

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

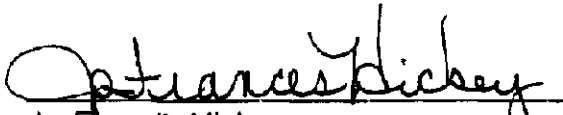
1. All claims asserted by Claimant H.D. Vest, Inc., H.D. Investment Securities, Inc. and Herb Vest shall be and hereby are denied in their entirety.
2. H.D. Vest, Inc. shall pay to Kenneth M. Greene the sum of **ten thousand dollars** (\$10,000.00) as actual damages; the sum of **one hundred twenty five thousand dollars** (\$125,000.00) as punitive damages; and attorney's fees in the amount set forth in the affidavit of fees submitted by counsel not to exceed **forty thousand dollars** (\$40,000.00). In making this award of punitive damages and attorney's fees, the undersigned arbitrators have determined that they have the authority to so award punitive damages and attorney's fees.
3. H.D. Vest Investment Securities, Inc. is also directed and ordered to amend the U-5 of Kenneth M. Grene to reflect that his termination was voluntary.
4. Each party shall bear their own costs, expenses and fees incurred in this matter not specifically enumerated herein.

FORUM FEES

Pursuant to §44(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 \$500.00 and shall retain as forum fees the hearing session deposit in the amount of \$1,000.00 previously deposited with the N.A.S.D. by the Claimants. The National Association of Securities Dealers, Inc. ("N.A.S.D.") shall retain the non-refundable filing fee in the amount of \$500.00 and shall retain as forum fees the hearing session deposit in the amount of \$1,000.00 previously deposited with the N.A.S.D. by the Respondent. Claimants shall be and hereby are jointly and severally liable for and shall pay to the N.A.S.D. the sum of \$2,000.00 as additional forum fees. Claimants are further jointly and severally liable for and shall pay to Kenneth M. Greene the sum of \$1,500.00 as reimbursement of filing and hearing session deposit fees.


Forum fees are calculated at the rate of \$1,000.00 per hearing session and \$300.00 for each prehearing conference, if any.

The N.A.S.D. shall retain postponement fees in the amount of \$1,000.00 previously deposited with the N.A.S.D. by the Claimants. Fees are payable to the **National Association of Securities Dealers, Inc.**



Jo Francis Hickey
Industry Arbitrator, Presiding Chair

Dated:

3/8/94


Kenneth R. Hanks
Industry Arbitrator

3-8-94


Raymond E. Jennison
Industry Arbitrator

3/8/94