

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

Name of Claimants

George Vetrano
Carol Vetrano

No. 93-01685

Name of Respondents

Steven E. Kaye
Yaeger Securities

REPRESENTATION OF PARTIES

For Claimants: Lawrence E. Condit, Esq., Tucson, Arizona.

For Respondent Yaeger Securities: David Mahler, Yaeger Securities, Encino, California.

Respondent Steven E. Kaye failed to appear.

CASE INFORMATION

Statement of Claim filed on or about April 28, 1993.

Claimants' Submission Agreement signed on April 22, 1993.

Statement of Answer filed by Respondent Yaeger Securities on or about May 28, 1993.

Respondent Yaeger Securities Submission Agreement signed on May 28, 1993.

Respondent Steven E. Kaye has failed to file an Answer or Submission Agreement.

Amended Statement of Claim filed on or about June 7, 1993.

HEARING INFORMATION

Hearing date: February 22, 1994. Two (2) sessions.

Hearing Location: Scottsdale, Arizona.

CASE SUMMARY

Claimants, George and Carol Vetrano ("Claimants") alleged that Respondents, Yaeger Securities ("YS") and Steven E. Kaye ("Kaye"): Violated Sections 10(b) of the Securities and Exchange Act of 1945; violated Rule 10b-5; violated New York Stock Exchange ("NYSE") Rule 405; violated Article III, Section 2 of the National Association of Securities Dealers ("NASD") Rules of Fair Practice; violated A.R.S. Sections 44-1991, 1521 et seq., 13-3401 et seq., and 13-2301 et seq.; and common law fraud. The allegations arose out of a transaction in 3,000 shares of Dimensional Visional Group Limited ("DVGL").

In its Answer, YS, unless specifically admitted therein, denied the allegations contained in the Statement of Claim. In addition, YS asserted that: NYSE and NASD Rules do not give rise to a private cause of action; this action was brought after applicable statutes of limitations expired; and that Claimants failed to mitigate their damages.

RELIEF REQUESTED

Claimant requested, in claims one through five, the following award jointly and severally against YS and Kaye:

- 1) The sum of \$21,750.00;
- 2) punitive damages in the sum of \$250,000.00;
- 3) prejudgment interest;
- 4) attorney's fees of not less than \$50,000.00;
- 5) recoverable costs;
- 6) such other and further relief as the arbitrators deem just, proper and equitable.

YS requested that all claims be dismissed.

OTHER ISSUES CONSIDERED & DECIDED

Arbitrator Jay Alan Gatlin was unable to attend the hearing in this matter. Prior to the start of the hearing, the parties were informed of Arbitrator Gatlin's unavailability, and the parties agreed, for the record, to allow the hearing to proceed with the two remaining arbitrators. The parties could not agree upon a procedure if the arbitrators hearing the matter reached a deadlock. The parties did agree that the hearing could go forward and the problem of a deadlock would be taken up at a later date if, in fact, it did occur.

Upon review of the file and the representations made by the Claimant and review of the NASD file, the panel has determined that Respondent Steven E. Kaye has been properly served with the Statement of Claim pursuant to Sections 13 and 25 of the Code of Arbitration Procedure (the "Code"). The panel also determined that Respondent had received due notice of the hearing as required under Section 26 of the Code, and that the arbitration of the matter would proceed pursuant to Section 29 of the Code.

The parties have agreed that the Award in this matter may be executed by 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 NASD.

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. Respondents, Yaeger Securities and Steven E. Kaye are jointly and severally liable for, and shall pay to Claimants, George and Carol Vetrano the sum of \$9,375.00 as satisfaction of their claims made herein.
2. Claimants' claims for punitive damages and attorneys' fees are hereby denied and dismissed with prejudice.

OTHER COSTS

Each party shall bear its own costs associated with this arbitration, including attorneys' fees, except as is set forth more fully below.

Respondents, Yaeger Securities and Steven E. Kaye are jointly and severally liable for, and shall pay to the Claimants the sum of \$750.00 as reimbursement of their hearing session deposit costs incurred in filing this arbitration.

FORUM FEES

Pursuant to Section 43(c) of the Code, the following forum fees are assessed:

2 hearing sessions x \$750.00 = \$1,500.00

Pursuant to Section 43(c) of the Code, the NASD shall retain the nonrefundable filing fee in the amount of \$200.00, and shall RETAIN the hearing session deposit in the amount of \$750.00 previously paid to the NASD by the Claimant.

Pursuant to Sections 30(b) and 43(c) of the Code, Respondent Yaeger Securities shall pay to the NASD the sum of \$750.00 as the postponement fee associated with the postponement of the December 2, 1993 hearing date.

Additional forum fees in the amount of \$750.00 are assessed against Yaeger Securities.

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

CONCURRING ARBITRATORS

Dated:

Name:

March 6, 1994

David B. Zlotnick/s/
David B. Zlotnick
Presiding Chair
Public Arbitrator

March 4, 1994

Peter Kay/s/
Peter Kay
Industry Arbitrator

Date of Service by the NASD: March 9, 1994