

## N.A.S.D. AWARD

## NATIONAL ASSOCIATION OF SECURITIES DEALERS

---

In the Matter of the Arbitration Between

---

Name of Claimant

Seymour S. Kain Living Trust

93-02370

Name of RespondentChatfield Dean & Co.

---

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. ("NASD") on June 14, 1993, Claimant Seymour S. Kain Living Trust Dated March 1, 1988 ("Kain"), who appeared pro se, alleged that the Respondent Chatfield Dean & Company, Inc. ("Chatfield Dean") used high-pressure sales tactics and false promises of monetary gains to influence stock purchases. Kain purchased 500 shares of NTN Canada, Inc. stock ("NTN Canada") on March 15, 1991 from the Respondent by and through his account executive, James Mills ("Mills"). Kain allegedly requested a prospectus on March 15, 1991 and on March 19, 1993 and was promised a prospectus on both occasions by Mr. Mills. The Claimant did not receive a prospectus yet he did receive News Releases, a research report and promotional material concerning NTN Canada. The Claimant asserted that on May 17, 1991 he was coerced into buying an additional 500 shares of NTN Canada at the insistence of Mr. Mills who repeatedly made assurances that the stock would easily double, triple or, possibly, quadruple before the end of the year. Though the monthly and quarterly account statements revealed continuous decreases on the value of the stock, Mills and his successor allegedly reassured the Claimant that the stock value would be recover. The claimant further asserted that he received a notice of an annual meeting for NTN Canada to consider and act on a reverse split, which was the second reverse split in two or three years. In accordance with his request on October 12, 1992, Kain received a stock certificate representing 143 shares of NTN Canada in December, 1992. The Claimant's requests for reimbursement of his losses were

Page Two  
NASD Award 93-02370

denied by the Respondent.

In the Statement of Answer, Respondent Chatfield Dean, by and through its in-house attorney, Christa D. Taylor, Corporate Counsel, denied the allegations in the claim. Chatfield Dean asserted that the investment in NTN Canada was suitable since the Claimant informed the Respondent upon opening the account that his investment objective was growth with risk and that he had a net worth of \$400,000.00, an annual income of \$35,000.00 and prior investment experience. The Respondent alleged that it was unlikely that the Claimant was promised a prospectus since the initial offering occurred in March, 1987 making the prospectus outdated. Chatfield Dean further alleged that the Claimant did not complain about the purchase or the value of the stock until nearly two years after the initial purchase. With regard to the promises of an increase in the stock value, Chatfield Dean asserted that such price predictions are a violation of securities regulations and stated that there is no reason to believe Mr. Mills violated the regulation. The Respondent further asserted the following affirmative defenses: (1) the Claimant failed to state a claim upon which relief may be granted; (2) one or more statutes of limitations bars the claim; (3) Claimant failed to mitigate his damages, if any; and, (4) the Claim is barred by waiver, estoppel and laches.

#### RELIEF REQUESTED

Claimant Seymour S. Kain Living Trust requested \$2,335.00 in actual damages minus the current value of the stock certificates which he would return.

Respondent Chatfield Dean & Co., Inc. requested that the Claim be dismissed in its entirety.

#### AWARD

Pursuant to Section 13 of the NASD Code of Arbitration Procedure, a Single Public Arbitrator, Lawrence A. Coles, Jr., Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on June 10, 1993 and signed by Kenneth S. Bernstein, Executive Vice President, on behalf of the Respondent on July 21, 1993.

The Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for

Page Three

NASD Award 93-02370

determination as follows:

1. The Statement of Claim is hereby dismissed and denied in its entirety;
2. The parties shall each bear their respective costs; and
3. The \$50.00 filing fee previously deposited with the NASD by the Claimant Seymour S. Kain Living Trust shall be retained by the NASD.

**AFFIRMATION**

I, Lawrence A. Coles, Jr., Esq., do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.

  
Signature of Arbitrator

Date of Decision:

12/13/93