

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Jeanne Lee and Jeffrey C. Mauk

93-02541

Name of Respondents

Hibbard Brown & Co., Inc.
Thomas Corey Kipp

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on June 29, 1993, Claimants Jeanne Lee and Jeffrey C. Mauk, who appeared Pro Se, alleged that Respondents Thomas Corey Kipp and Hibbard Brown & Co., Inc., sold 25 shares of Claimants' Disney common stock without being authorized to do so. The Claimants further alleged that Respondent Thomas Corey Kipp used high-pressure sales tactics in order to induce the Claimants to purchase Sequential Information Systems, Inc. (SISI) common stock. The Claimants alleged that this and every other stock recommended by Respondent Thomas Corey Kipp was unsuitable since it involved high risk while Claimants' stated objective was to invest in conservative stocks. The Claimants further alleged that they were not notified in a timely fashion of a reverse split which occurred in one of their stocks. The Claimants contended that as a result of these occurrences, they have suffered damages for which the Respondents should be held liable.

Respondent Hibbard Brown & Co., Inc. and Respondent Thomas Corey Kipp, through Hibbard Brown & Co., Inc.'s in-house counsel Steven B. Caruso, Esq., New York, New York, maintained that the Claimants have tried to hold the Respondents responsible for the failure of the market performance of their investments to meet their expectations. Respondents maintained that Claimants' allegations concerning the unauthorized sale of Disney common stock and unsuitable trading are devoid of evidentiary fact. Respondents further maintained that an investigation conducted by a National Association of Securities Dealers,

Inc. District Office in this matter concluded that no action was warranted regarding the same. Respondents further maintained that the Claimants continued to purchase securities through Respondent Thomas Corey Kipp just two weeks after the alleged unauthorized sale of Disney common stock and the sale of SCS. Respondents contended that confirmation of the Disney transaction was provided in writing to the Claimants, and this transaction was not protested until the initiation of this proceeding, approximately ten months after the fact. Respondents also contended that written confirmation of the SCS sale was provided to the Claimants, which was not protested until the initiation of this proceeding approximately seven months after the fact, and that, therefore, they should not be held liable in this matter.

RELIEF REQUESTED

Claimants Jeanne Lee and Jeffrey C. Mauk requested \$5,352.68 in actual damages.

Respondents Hibbard Brown & Co., Inc. and Thomas Corey Kipp requested that the Statement of Claim be dismissed in its entirety and that the Respondents be awarded such relief as may be deemed just, proper and equitable under the circumstances, including attorneys' fees.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single public arbitrator, Joseph W. Grossner, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on August 5, 1993, and by the Respondents on October 21, 1993.

And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Respondents Hibbard Brown & Co., Inc. and Thomas Corey Kipp are jointly and severally liable and shall pay to the Claimants Jeanne Lee and Jeffrey C. Mauk \$2,700.00 in actual damages.
2. Respondents Hibbard Brown & Co., Inc. and Thomas Corey Kipp are jointly and severally liable and shall pay to the Claimants Jeanne Lee and Jeffrey C. Mauk simple interest at the rate of 5%

per annum from November 1, 1992 to the date of payment of the award.

3. The parties shall bear their respective costs, including attorneys' fees.
4. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants shall be retained by the NASD, Inc. Respondents Hibbard Brown & Co., Inc. and Thomas Corey Kipp are jointly and severally liable and shall pay to the Claimants \$150.00 as reimbursement of the filing fee.

AFFIRMATION

I, Joseph W. Grossner, do hereby affirm upon my oath of 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: May 24, 1994