

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

J.P. Morgan Securities, Inc.

93-02647

Name of Respondent

Berean Capital, Inc.

REPRESENTATION

For Claimant J.P. Morgan Securities ("Claimant"): Donna I. Dennis, Esq. of the law firm of Richards Spears Kibbe & Orbe.

For Respondent Berean Capital, Inc. ("Respondent"): Michelle J. d'Arcambal, Esq. of the law firm of Ross & Hardies.

CASE INFORMATION

Statement of Claim filed: July 6, 1993.

Claimant's Submission Agreement signed on: June 28, 1993.

Statement of Answer filed by Respondent on: September 22, 1993.

Respondent's Submission Agreement signed on: September 27, 1993.

HEARING INFORMATION

Pre-Hearing Conference:	January 25, 1994	-	One Session
	March 1, 1994	-	One Session

Hearing Date/Sessions:	March 7, 1994	-	Two Sessions
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Hearing Location: National Association of Securities Dealers, Inc. offices located in New York City, New York.

CASE SUMMARY

Claimant alleged that Respondent failed to honor its contractual obligations in two over-the-counter trades of United States Treasury Notes, Series C, dated August 15, 1988 (the "Notes"); that the first trade occurred on June 22, 1992, when Respondent placed an order to sell 11,835,000 Notes to Claimant; and that after confirming that the transaction was "done", the Notes were promptly resold by Claimant to third parties.

Thereafter, Respondent allegedly advised Claimant that Respondent intended to buy the Notes rather than sell them; that Claimant offered Respondent the option of buying back the same amount of Notes from Claimant at the then current offer price; and that Respondent declined the option to reverse the trade by buying back the same amount of Notes and paying the difference between the bid and offer price. Claimant also alleged that on June 29, 1992, Respondent failed to deliver the Notes as scheduled.

Claimant further alleged that the second trade occurred on July 1, 1992, when Claimant again suggested that Respondent buy back the Notes at the current market price; that Respondent agreed to reverse the trade, and pay Claimant the difference between the bid price of the Notes on June 22, 1992 and the offer price of the Notes on July 1, 1992; and that despite repeated requests for payment, Claimant has never received any of the \$104,023.63 owed to Claimant by Respondent as a result of Respondent's buy back of the Notes on July 1, 1992.

Respondent maintained that Respondent received an order from a client requesting a bid on United States Treasuries with a coupon of 9 1/4% and a maturity date of August 15, 1998; that Respondent mistakenly entered into a transaction with the Claimant; and that, immediately after entering into the transaction, Respondent requested that Claimant "bust the trade".

Respondent further maintained that Respondent then sold the Notes to the correct bidder and could not deliver them to Claimant; that Claimant suggested that the trade be "paired", at a higher price; and that Respondent did not agree to this suggestion.

Respondent also maintained that Claimant had an obligation to deal in good faith and comply with the usual and expected customs and practices of the industry; that in the securities industry, when a request that the mistaken trade be reversed is made immediately after the mistake, it is usual and customary to reverse the trade or, at a minimum, to investigate whether it is possible to reverse the trade; and that Claimant breached the covenant of good faith and fair dealing and acted contrary to the usual custom and practice in the industry.

RELIEF REQUESTED

Claimant requested the payment of damages in an amount determined by this panel, reflecting the amount owed to Claimant arising out of Respondents trades with Claimant on June 22, 1992 and July 1, 1992, or not less than \$104,023.63, together with interest, costs and attorneys' fees.

Respondent requested that Claimant's statement of claim be dismissed in its entirety, and that costs and attorneys fees be assessed against Claimant.

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. Respondent be and hereby is liable to the Claimant in the sum of \$104,023.00, interest specifically excluded.
2. Each party shall bear its own expenses, including attorneys' fees.

FORUM FEES

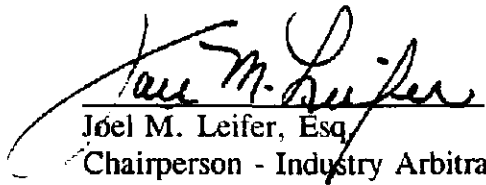
Pursuant to Section 44c of the Code of Arbitration Procedure, the arbitrators have determined that the NASD shall retain the \$500.00 non-refundable filing fee and \$750.00 hearing session deposit and the following Forum Fees are assessed:

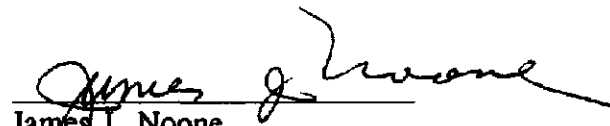
2 pre-hearing conferences x \$300.00 = \$600.00 net due.
2 sessions x \$750.00 = \$1500.00 minus hearing session deposit of 750.00
= net \$750.00 due.


Claimant be and hereby is liable and shall pay to the NASD the sum of \$675.00 to represent forum fees and the Respondent be and hereby is liable and shall pay to the NASD the sum of \$675.00 to represent forum fees.

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

Concurring Arbitrators' Signatures
Name


Joel M. Leifer, Esq.
Chairperson - Industry Arbitrator


James J. Noone
Industry Arbitrator


James E. Howard
Industry Arbitrator

Date of Decision: April 27, 1994

STATE OF

COUNTY OF

On this 24th day of MARCH, 1994, before me personally appeared JOEL M. LEITER known to me to be the individual described in and who executed the foregoing instrument and duly acknowledged to me that he/she executed the same.

Joan Weber

JOAN WEBER
Notary Public, State of New York
No. 24-4641561
Qualified in Kings County
Commission Expires 12-28-95

STATE OF NJ

COUNTY OF Bergen

On this 30 day of MARCH, 1994, before me personally appeared JAMES J. NOONE known to me to be the individual described in and who executed the foregoing instrument and duly acknowledged to me that he/she executed the same.

Kathleen S. Ruh

KATHLEEN S. RUH
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES
JAN. 16 1998

STATE OF New York

COUNTY OF Kings

On this 22nd day of April, 1994, before me personally appeared JAMES S. HOWARD known to me to be the individual described in and who executed the foregoing instrument and duly acknowledged to me that he/she executed the same.

Ashvin R. Patel

ASHVIN R. PATEL
NOTARY PUBLIC, State of New York
No. 41-4799045
Qualified in Queens County
Certificate Filed in Kings County
Commission Expires September 30, 1994