

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Stephen Bliss
Jeffrey Bliss
Daniel Craig

vs.

Case #
93-03526

Name of Respondents

Bailey, Martin & Appel Inc
Financial Equities Resources, Inc.
Mark Perron
Howard Appel

REPRESENTATION

For Claimants, Stephen Bliss, Jeffrey Bliss and Daniel Craig ("Claimants"), Phillip Giordano, Esq. from the law firm of Giordano & Champa, located in Boston, Massachusetts.

For Respondents, Bailey, Martin & Appel, Inc. ("BMA"), Financial Equities Resources, Inc. ("FER") and Howard Appel ("Appel"), Daniel J. Dugan, Esq., from the law firm of Spector Gadon & Rosen, P.C., located in Philadelphia, Pennsylvania.

For Respondent, Mark Perron, ("Perron"), Andrew C. Oatway, Esq. and Michael Morisi, Esq., from the law firm of Morisi & Associates, located in Braintree, Massachusetts.

CASE INFORMATION

Statement of Claim was filed on September 7, 1993.

Claimants' Submission Agreement was signed on August 5, 6, and 3, 1995, respectively.

Joint Statement of Answer was filed by Respondent's BMA, FER and Appel, on October 27, 1993.

Respondents', BMA, FER, and Appel, Submission Agreements were signed on October 25, 1993.

Statement of Answer was filed by Respondent, Perron, on January 26, 1994.

Respondent Perron's Submission Agreement was signed on January 19, 1994.

HEARING INFORMATION

Pre-Hearing Conference: December 5, 1995 - 1 session

Hearing Dates/Sessions: January 16, 1995 - 2 sessions
January 17, 1995 - 2 sessions
February 13, 1995 - 2 sessions

Hearing Location: NASD offices located in Boston, Massachusetts.

CASE SUMMARY

Claimants have commenced this arbitration claim to recover damages resulting from violation of: 1) Section 12(2) and 15 of the Securities Act of 1933, 15 U.S.C. Section 771(2) and Section 770; 2) Section 10(b) and 20(a) of the Securities Exchange Act of 1934, 15 U.S.C. Section 78j(b) and Section 78t(a) and Rule 10b-5 promulgated thereunder, 17 C.F.R. Section 240.10-5; 3) M.G.L. c. 93A, Sections 2 and 9; 4) M.G.L. c. 110 A Sections 301 and 410 (a)(2) and (b); 5) breach of contract; 6) Breach of fiduciary duty; 7) fraud and deceit; 8) Breach of a broker/dealer's duty to supervise; 9) Breach of a broker/dealer's duty of reasonable care and fair practice; and 10) negligent misrepresentation BMA, FER, Appel and Perron (collectively "Respondents").

Claimants, J. Bliss and Craig, allege that Perron was aware that they had insufficient investment experience to purchase units of Longwood Group, Ltd. ("Longwood"), that he represented that this investment would double within two to three months, has minimum risk and was so safe that Perron's mother invested in it. Claimant J. Bliss also allege that Perron failed to sell his investment as instructed and when Perron finally sold the unit, J. Bliss has sustained a loss of \$2,010.

Claimant Craig also alleges that Perron continued to tell him that the investment would make a lot of Money. Claimant S. Bliss alleges that Perron purchased one unit of Longwood without authorization and at a cost of \$3,300 and later sold it at loss and explained that the purchase was a mistake.

Claimant S. Bliss alleges that on the recommendation of Perron he also purchased 7,000 shares of Farmstead International Corporation at \$.50 per share because Perron told him it was a great way to start a college fund for his daughter and 900 shares of Naturade at \$5.00 per share. Claimant S. Bliss also alleges that Jim Harrington, a business associate of Perron, told him to sell Farmstead for a tax break as it was worthless and that Naturade is also worthless.

Respondents BMA, FER and Appel, deny the allegations of wrongdoing and deny liability for Claimants' losses. Said Respondents contend that Claimants had sufficient experience and financial wherewithal to invest in growth stocks and that J. Bliss was suitable for the investment as it represented a small portion of his investable liquid assets.

Respondent Perron denies the allegations of wrong doing, denies liability and asserts twelve affirmative defenses and nine factual and equitable defenses. Said Respondents specifically denies that he represented that the Longwood investment would double in two to three months.

RELIEF REQUESTED

Claimants request an award joint and several as to all Respondents for \$26,000 in compensatory damages, treble damages, costs and reasonable attorney's fees, punitive damages and any additional relief as this panel deems just and proper.

Respondents request that the claims be denied.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that the Award in this matter may be executed in counterpart copies and agreed to receive conformed copies of the Award while the original remains on file with the NASD.

During the hearing, Respondents moved to dismiss the claims which were denied without prejudice. Insofar as the same arguments were later presented, this panel has ruled to deny said motions.

The panel has received the Claimants' post-hearing memorandum and has noted Respondents' opposition to the Claimants' submission of their post-hearing memorandum, and Respondents' request to file a reply memorandum. The panel has denied the Respondents' motion to file a reply memorandum. To insure that there is no misunderstanding relative to this ruling we point out the following. The Respondents are mistaken in stating that the Claimants were not granted permission to file their post-hearing memorandum. The Respondents had filed several legal memoranda during the course of the hearing, and at the close of the hearing the Claimants requested permission to file a reply and were permitted to do so. The Claimants did not adhere to the time allowed by the panel (10 days), but that is not material to the panel's decision. The panel, after finally receiving the Claimants' lengthy memorandum, did not make its decision based upon the Claimants' post-hearing memorandum.

Much of the memorandum was devoted to attempting to recite testimony. That portion of the memorandum was ignored by the panel insofar as each panel member expressly relied upon his

notes and memory of the testimony in deliberating. The legal argument contained in the Claimants' post-hearing memorandum was likewise not relied upon by the panel in reaching its decisions. For these reasons, there is no basis to allow the Respondents to supplement their earlier memorandums by filing a reply to the Claimants' post-hearing memorandum. The Respondents' prior memoranda had briefed the various legal arguments which were raised by them throughout the presentation of their defense, and further legal memoranda would be repetitive and a cause of further delay. No theories of recovery were presented during the hearing which were not set forth in the original claim, thus the Respondents were aware from the outset of all of the issues to be decided by the panel.

AWARD

After considering the pleadings, the testimony, the evidence presented at the hearing and post hearing submissions (see Other Issues Considered and Decided), the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

The panel has deliberated and has made an award, the specifics of which follow.

	Compensatory Damages	Punitive Damages	Attorney's Fees
Daniel Craig	\$6,353.75	\$6,450.00	\$4,000.00
Jeffrey Bliss	\$2,110.00	\$2,100.00	\$4,000.00
Stephen Bliss	\$6,622.75	\$6,450.00	\$4,000.00

Insofar as Daniel Craig still owns Longwood (the panel is assuming that he has not sold it since the hearing occurred), the Respondents are hereby given the election to demand the transfer of Longwood from Mr. Craig to them upon Mr. Craig being paid his compensatory damages award. The Respondents are ordered to notify Craig's counsel in writing within 14 calendar days of receiving notice of this award if respondents intend to demand said transfer from Mr. Mr. Craig, and Mr. Craig is obviously obligated not to sell his Longwood unit(s) during this period of time to give the Respondents time to give notice.

Simple interest is assessed on the compensatory damages award only, at 12% annually, calculated from the date of filing, which the panel has set at September 7, 1993, to accrue until the date of payment which will be the date of "posting" said payment in the mail.

Those payments already made by the Claimants for filing and forum fees are to be retained by the NASD. The balance of the forum fees are assessed against the Respondents, joint and several, except as to Mark Perron who is not liable for any forum fees, excepting those fees which he has already paid to the NASD, if any.

The compensatory damages award is assessed against all of the Respondents, joint and several.

The punitive damages and attorney fee awards are assessed against all of the respondents, joint and several, except as to Respondent Mark Perron who is not liable for the punitive damages or attorney fee awards.

The panel has determined that various wilful misrepresentations were made to the Claimants, and that the principals of BMA failed to meet their respective duty to supervise, and to disclose material information to BMA staff who were dealing directly with the public, and failed to insure that such information was disclosed to the Claimants. The panel has found that fraudulent sales tactics were utilized, and that fraudulent representations were made thereafter in the subsequent dealings between BMA staff and the Claimants.

FORUM FEES

Pursuant to Section 43(c) of the *Code of Arbitration Procedure*, the following Forum Fees are assessed.

Non-refundable Filing Fee - \$100.00

Hearing Session Fees - \$2,400.00 (6 hearing sessions @ \$400.00 per session)

Pre-Hearing Conference - \$300.00 (1 pre-hearing conference @ \$300.00 per conference)

Total Fees - \$2,800.00

1. Claimants are assessed \$500.00 in forum fees which have been paid.
2. Respondents BMA, FER and Appel are jointly and severally assessed \$2,300.00 in forum fees. Respondents previously paid \$1,125.00 and owe a balance of \$1,175.00.

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

ARBITRATION PANEL

Dallas W. Haines, III, Esq.	-	Public Chairperson
Douglas R. Savidge	-	Public Panelist
John Hansen, Esq.	-	Industry Panelist

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Concurring Arbitrator's Signature

Dallas Haines

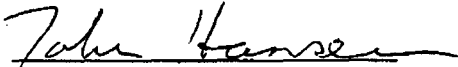
Dallas W. Haines. III, Esq.

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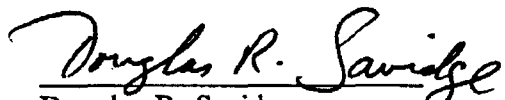

John Hansen, Esq.

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Douglas R. Savidge

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