

**NATIONAL ASSOCIATION OF SECURITIES DEALERS  
AWARD**

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In the matter of the Arbitration Between

CHARLES A. DEYLE,

NASD Arbitration  
No. 93-03573

Claimant,

v.

J.W. GANT AND ASSOCIATES, INC.,  
WILLIAM FRASER and DONALD B. GASGARTH,

Respondents.

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***Representation***

For Claimant: Charles Deyle, pro se, San Diego, California

For Respondent William Fraser: David Zisser, Esq. of Berliner, Kaplan, Zisser & Walter,  
Denver, Colorado

For Respondent J. W. Gant: J. Patrick Driver of J.W. Gant, Englewood, Colorado

For Respondent Donald Gasgarth: Donald Gasgarth, pro se, Chicago, Illinois

***Case Information***

Statement of Claim filed: September 7, 1993

Claimant's Submission Agreement signed: September 7, 1993

Statement of Answer filed on: William Fraser - November 15, 1993  
Donald Gasgarth - November 16, 1993

Although duly served, Respondent J. W. Gant did not file an Answer.

Respondents' Submission Agreements signed on:

William Fraser - November 15, 1993

Donald Gasgarth - November 16, 1993

Although duly served, Respondent J. W. Gant did not file a Submission Agreement but is subject to the jurisdiction of the National Association of Securities Dealers in accordance with Section 12 of the NASD Code of Arbitration Procedure.

***Hearing Information***

Prehearing Conference Date(s)/Sessions: May 26, 1994 / one  
October 25, 1994 / one

Hearing Date/Sessions: December 1, 1994 / two

Hearing Location: San Diego, California

### ***Case Summary***

Claimant alleged:

Unsuitability, unauthorized trading, failure to supervise and misrepresentation in the purchase of Murex Industries, Rag Shops, Action Staffing and Concord Camera. Claimant advised Respondent William Fraser (Fraser) that he had little investment experience and was a conservative investor. Fraser was an Investment Executive for J. W. Gant, which has since gone out of business. Respondent Donald Gasgarth (Gasgarth) was the manager of the J. W. Gant office.

Respondent William Fraser alleged:

Claimant indicated he was a self-employed real estate developer with annual income of \$100,000 and net worth of \$5,000,000, which included \$200,000 in cash and \$100,000 in securities. He said he was interested in short-term trading profits and aggressive growth, that he made his own investment decisions and had investment experience and an account with Dean Witter. All trades were authorized by claimant. An order to sell 3,000 shares of Murex Industries was not received.

Respondent Donald Gasgarth denied all allegations of wrongdoing in the Statement of Claim and alleged:

Gasgarth was not and never had been Claimant's broker or agent in any transactions and had never received any commissions from him or any of his accounts. His only communications with Deyle were on a three-way conference call with Deyle and another broker in which he gave a quote on a stock and a lunch in 1992.

Respondent J. W. Gant did not file an Answer or appear at the hearing.

### ***Relief Requested***

Claimant requested compensatory damages of \$76,000.

### ***Other Issues Considered and Decided***

The parties have agreed that the Award in this matter may be executed in 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 originals 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. Each and every claim is denied;
2. The parties shall each bear their respective attorney's fees;
3. The parties shall each bear their respective costs.

***Other Costs***

None.

***Forum Fees***

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following forum fees are assessed: The National Association of Securities Dealers, Inc., shall retain the \$500 hearing session deposit previously paid by the claimant. Forum fees are assessed against:

Claimant for \$800, minus \$500 already paid, leaving a balance due of \$300; and  
Respondent William Fraser for \$800,

calculated as follows: two prehearing sessions at \$300/prehearing session, plus two hearing sessions at \$500/hearing session, equals \$1,600, divided equally by Claimant and Respondent William Fraser.

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

***Arbitration Panel***

**Name**  
James Knotter  
Alvin Asher  
Ronald Hrusoff

**Public / Industry**  
Public Arbitrator  
Industry Arbitrator  
Public Arbitrator

***Concurring Arbitrators' Signatures***

\_\_\_\_\_  
James Knotter

\_\_\_\_\_  
*Alvin Asher*  
Alvin Asher

\_\_\_\_\_  
Ronald Hrusoff

Served 12/16/94

Date of Decision: 12/1/94

CURRENT DATE: 12/9/94

### ***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:

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3. The parties shall each bear their respective costs.

### ***Other Costs***

None.

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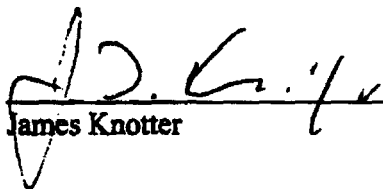
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**Name**  
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Alvin Asher  
Ronald Hrusoff

**Public / Industry**  
Public Arbitrator  
Industry Arbitrator  
Public Arbitrator

### ***Concurring Arbitrators' Signatures***

  
James Knotter

\_\_\_\_\_  
Alvin Asher

\_\_\_\_\_  
Ronald Hrusoff

Served 12/16/94

**Date of Decision:** \_\_\_\_\_

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### ***Other Costs***

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### ***Arbitration Panel***

<u>Name</u>	<u>Public / Industry</u>
James Knotter	Public Arbitrator
Alvin Asher	Industry Arbitrator
Ronald Hrusoff	Public Arbitrator

### ***Concurring Arbitrators' Signatures***

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James Knotter

\_\_\_\_\_  
Alvin Asher

Ronald R. Hrusoff  
\_\_\_\_\_  
Ronald Hrusoff

Served 12/16/94

***Date of Decision:*** 12-1-94