

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimants

Galen Hayes & Diane Hayes

93-04770

Name of Respondents

Nathan Lane  
Bill Calkins

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CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on November 16, 1993, Claimants Galen & Diane Hayes, who appeared Pro Se, alleged that Respondents Nathan Lane ("Lane") and Bill Calkins ("Calkins") made misrepresentations to them. Claimants further alleged that in August 1991, Respondent Lane, a financial consultant with F.N. Wolf & Company, phoned them to solicit investments. Claimants contended that on September 23, 1991 they purchased 500 shares of CCFR for \$3,626.50 based on Respondent Lane's recommendation and was charged a 5.5% commission. Claimants contended that over the next year they made several stock purchases, after being solicited by Respondent Lane, including shares of "DIPC" and "GTARC". Claimants further contended that Respondent Lane continued to charge high commissions and, despite repeated requests from Claimants, refused to provide a writing to memorialize his verbal representations. Claimants alleged that in August 1992, Respondent Lane informed them that he was moving to Shearson and sent a letter for Claimants to sign authorizing Respondent Lane to move their account with him. Claimants further alleged that Respondent Lane told them that he left F.N. Wolf & Company because he had been given bad advice by F.N. Wolf & Co. and had been lied to. Claimant contended Respondent Lane apologized for lying to them, but said he was not responsible and was just a "puppet". Claimants contended that they invested a total of \$13,941.00 through Respondent Lane and paid \$1,128.00, or 8% of the total, while losing \$7,027.00. As a result of the above, Claimants alleged that they have suffered damages for which the Respondents should be held liable.

Respondent William Calkins, through his representative, Alvin L. Fishman, Esq. of Tesler, Sandmann & Fishman, San Francisco, CA, maintained that he was the branch manager of the office where Respondent Lane was employed by F.N. Wolf & Company. Respondent Calkins further maintained that these supervisory functions were the only dealings he had with the transactions which are the subject of the claim. As a result of the above, Respondent contended that he should not be held liable in this matter.

Respondent Nathan Lane failed to file an Answer to the Statement of Claim.

### **RELIEF REQUESTED**

Claimants Galen & Diane Hayes requested \$7,100.00 in actual damages, plus \$900.00 in interest.

Respondent William Calkins requested that the claims of the Claimants be dismissed.

Respondent Nathan Lane failed to file an Answer to the Statement of Claim.

### **OTHER ISSUES CONSIDERED & DECIDED**

In accordance with Section 13 of the NASD, Inc. Code of Arbitration Procedure, the Respondent Nathan Lane, was served a copy of the Statement of Claim by regular mail and given an opportunity to respond, which he failed to do. Service of Notice of the Arbitrator's Identity was also effected upon Respondent Nathan Lane as evidenced by return receipt card dated June 16, 1994 on file at the NASD, Inc.

Pursuant to the By-laws of the NASD, the Arbitrator determined that Respondent Nathan Lane had notice of the claim, and was required to submit to this arbitration proceeding; and is, therefore, bound by the arbitrator's ruling and determination.

### **AWARD**

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public arbitrator, John O. Blevins, Jr., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on November 4, 1993, by Respondent William Calkins on March 1, 1994, but not signed by the Respondent Nathan Lane as required by Sections 12 & 13 of the NASD, Inc. Code of Arbitration Procedure.


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. Respondent Nathan Lane is liable and shall pay to the Claimants Galen & Diane Hayes \$2,666.00 in actual damages.
2. The claims of the Claimants Galen & Diane Hayes against Respondent William Calkins are dismissed in their entirety.
3. The parties shall bear their respective costs.
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. Respondent Nathan Lane is liable and shall pay to Claimants Galen & Diane Hayes \$150.00 as reimbursement of the filing fee.

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**AFFIRMATION**

I, **JOHN O. BLEVINS, JR.**, 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.

  
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Signature of Arbitrator

**DATE OF DECISION:**      February 27, 1995