

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

David B. Kesler Individually and
Law Offices of David B. Kesler, P.A.

93-05349

Name of Respondents

Chatfield Dean & Co.
Corporate Securities Group, Inc.
Samuel Crockett

REPRESENTATION

For Claimant, David B. Kesler Individually and Law Offices of David B. Kesler, P.A. ("Kesler"): Allan J. Fedor, Esq. and Franell Fedor, Esq. of Fedor & Fedor, Largo, FL.

For Respondent, Chatfield Dean & Co., ("Chatfield"): Christa D. Taylor, Esq., corporate counsel for Chatfield.

For Respondent, Corporate Securities Group, Inc., ("CSG"), Francis Curran, Esq. of Fowler, White, Gillen, Boggs, Villareal and Banker, P.A. of Clearwater, FL.

For Respondent, Samuel Crockett, pro se.

CASE INFORMATION

Statement of Claim filed: December 28, 1993.

Claimant's Submission Agreement signed on: April 29, 1993.

Statement of Answer filed by Respondent, Chatfield, on: February 10, 1994.

Respondent's Chatfield Submission Agreement signed on: January 17, 1994.

Statement of Answer filed by Respondent, CSG, on: March 16, 1994.

Statement of Answer filed by Respondent, Samuel Crockett, on: May 12, 1994.

HEARING INFORMATION

On September 25, 1995, a pre-hearing conference was held with an arbitrator via-telephone.

On December 4 and 5, 1995, in Tampa, Florida, hearings lasting 4 sessions were conducted.

CASE SUMMARY

Claimants, alleged that despite Claimants' conservative investment objectives, Respondents recommended investments whose prices were manipulated and which were of substantial risk. Further, Respondents churned Claimants' accounts for their own benefit. Respondents' stock manipulation and excess markups involved, at the very least, a willful, wanton, callous and reckless disregard for Claimants' investment objectives.

Chatfield was a market maker in all of the securities it sold to the Claimant. Claimants alleged that Chatfield never disclosed the commissions on their trades. In particular, Claimants alleged that Respondent Chatfield manipulated the market in Royce Laboratories stock.

The Claimants alleged that Respondents' conduct: 1) constituted common law fraud and misrepresentation and/or negligent misrepresentation; 2) constituted negligence and/or gross negligence; 3) constituted a breach of fiduciary duty to Claimants; and 4) violated Rules 1, 2, 18, and 27 of the NASD Rules of Fair Practice.

Respondent Chatfield denies all of Claimant's allegations. Chatfield contends that Claimant was a sophisticated, suitable investor, whose investment objectives were growth with risk and speculation. Chatfield states that it acted as market maker for the stocks purchased by Claimant and disclosed all information the law required it to disclose regarding its market making activities. Chatfield neither manipulated the stock price of Royce Laboratories, Inc., nor churned Claimant's accounts, nor breached any fiduciary duties to Claimant in these non-discretionary accounts.

Respondent Chatfield alleged the affirmative defenses of statute of limitations, failure to mitigate, waiver, estoppel and laches.

Respondents Corporate Securities Group and Samuel Crockett each separately settled with the Claimants and were not, therefore, to be considered as parties to this award.

RELIEF REQUESTED

Claimants requests actual compensatory damages in excess of \$137,000.00, plus costs, expenses, disbursements and reasonable attorneys' fees as well as the \$950.00 filing and forum fee paid to the NASD. Claimants also requested punitive damages and such other relief as the panel

deems just and proper.

Respondent Chatfield requested dismissal of the claim and award of its costs of arbitration.

OTHER ISSUES CONSIDERED & DECIDED

Claimants requested sanctions against Respondent Chatfield for discovery abuse, failure to produce documents pursuant to the arbitrator's order and for its deliberately dilatory defense motion related to the In Re: Royce Laboratories Securities Litigation. The panel denied the Claimants request for sanctions.

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award 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:

Respondent Chatfield Dean & Co. is found liable and shall pay to the Claimant the amount of \$3,836.00.

Respondent Chatfield Dean & Co. is also found liable and shall pay to the Claimant its costs in the amount of \$2,432.99.

Claimants request for attorneys' fees and punitive damages are hereby denied.

Respondent's request for costs are hereby denied.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount of \$3,300.00 (one pre-hearing conference x \$300.00 and four hearing sessions x \$750.00).

The Respondent, Chatfield Dean & Co., is hereby assessed \$3,300.00 for which \$750.00 shall payable directly to the Claimant and \$2,550.00 of which shall be paid to the NASD.

Respondent shall reimburse the Claimant \$200.00 for the non-refundable filing fee.

The NASD shall retain the session deposit of \$750.00 paid by the Claimants.

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

Concurring Arbitrators' Signatures
Name

Public/Industry

/s/
Robert M. Shavick, Esq.

Public

/s/
Gerald B. Conley

Industry

/s/
Ronald M. Gordon

Public

Date of Decision: March 5, 1996