

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimants

Thomas H.Kline & Mary T. Kline, JTEN

94-00043

Name of Respondents

John E. Cheevers

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CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on January 4, 1994, Claimants Thomas H. Kline and Mary T. Kline, who appeared Pro Se, alleged that they opened an Option Account at Cheevers Hand & Angeline, Inc. and explained to Respondent John E. Cheevers that they knew nothing about stock options and little about the stock market. Claimants further alleged that they refused to sign a margin agreement and told Respondent that they did not want to take part in any transactions conducted on a loan basis. Claimants contended that on October 19, 1992 they sold a Put over the telephone through Respondent for 100 shares of International Business Machines, Inc. ("IBM") expiring on January 22, 1994 at \$70, and were not told by Respondent that the transaction would have to be done on a loan basis or that anything additional would be required of them. Claimants further contended that after the Put was sold they were told by Respondent that they had to sign a margin agreement, and that they did so while under duress from Respondent. Claimants alleged that they suffered mental anguish when they were required on numerous occasions to provide additional margin in the form of IBM, Inc. stock as required by the margin agreement. In Claimants' response to Respondent's answer dated April 6, 1994, Claimants contended that after the trade in dispute was placed, no trade activity was engaged in by Claimants with Respondent except for the purchase of 100 shares of IBM, Inc. stock at \$70.00 per share as required by the Put transaction in question. As a result of the above, Claimants alleged that they suffered damages for which the Respondent should be held liable.

Respondent John E. Cheevers, who appeared Pro Se, maintained that Claimants called Respondent and entered an order to sell one open Put on IBM, Inc. January 22, 1994 70's at a limit price of 9. Respondent further maintained that he told Claimants the transaction in question must be segregated in a margin account. Respondent contended that the Claimants freely signed the margin agreement only one day after the trade in question and were not coerced by Respondent in any way. Respondent further contended that since the Claimants were making their own investment decisions and were placing their own orders, he should not be responsible for any losses they may have incurred. As a result of the above, Respondent maintained that he should not be held liable in this matter.

### **RELIEF REQUESTED**

Claimants Thomas H. Kline and Mary T. Kline requested \$1,857.12 in actual damages, \$600.00 in punitive damages, plus costs and legal fees.

Respondent John E. Cheevers requested that the Claimants' Statement of Claim be dismissed in its entirety, and that costs and legal fees be assessed against the Claimants.

### **AWARD**

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single public arbitrator, Donald G. Hatt, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on December 29, 1993 and not by the Respondent as required by Sections 12 and 13 of the NASD Code of Arbitration Procedure.

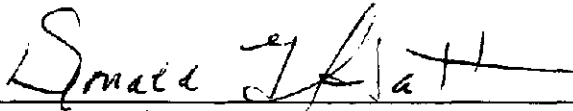
And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. The claims of Claimants Thomas H. and Mary T. Kline against Respondent John E. Cheevers are dismissed in their entirety.
2. The claim of Claimants Thomas H. and Mary T. Kline against Respondent John E. Cheevers for punitive damages is dismissed.
3. The parties shall bear their own costs, including attorney's fees.

4. The \$50.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants shall be retained by the NASD, Inc.

**AFFIRMATION**

I, **DONALD G. HATT, ESQ.**, do hereby affirm upon my oath of arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.

A handwritten signature in cursive script, reading "Donald G. Hatt", written over a horizontal line.

Signature of Arbitrator

**DATE OF DECISION:** July 25, 1994

STATE OF NEW YORK ss.:

COUNTY OF ALBANY

On this 20th day of July 19 94, before me personally appeared to me known and known before me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

Helen P. Porter

NOTARY PUBLIC

**WILLIAM G. GARDNER**  
Notary Public, State of New York  
Residing in Rensselaer County  
Commission Expires 30, 1996