

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the matter of the Arbitration Between

Name of Claimant(s)

Emil Durelle

NASD Arbitration  
No. 94-00787

Name of Respondent(s)

Yaeger Securities, Inc.  
Union Equity Partners, Inc.

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REPRESENTATION

For Claimant: Emil Durelle, Henderson, Nevada

For Respondent Yaeger Securities, Inc.: David N. Mahler, Yaeger Securities, Inc., Woodland Hills, California

For Respondent Union Equity Partners, Inc.: Gerald F. Smiley, Union Equity Partners, Inc., Las Vegas, Nevada

CASE INFORMATION

Statement of Claim filed: March 1, 1994

Claimant's Submission Agreement signed: February 19, 1994

Statement of Answer filed by Respondent Yaeger Securities, Inc.:  
January 12, 1995

Respondent Yaeger Securities, Inc. did not submit a Submission Agreement. However, Yaeger Securities, Inc. was represented at hearing and is subject to National Association of Securities Dealers, Inc. (NASD) jurisdiction in accordance with Section 12 of the NASD Code of Arbitration Procedure (Code).

Statement of Answer filed by Respondent Union Equity Partners, Inc.: July 12, 1994

Submission Agreement signed by Respondent Union Equity Partners, Inc.: July 19, 1994

#### HEARING INFORMATION

Pre-Hearing Conference Date(s)/Session(s): None

Hearing Date(s)/Session(s): January 12, 1995 (two sessions)

Hearing Location: Las Vegas, Nevada

#### CASE SUMMARY

Claimant alleged that he placed an order for 10,000 shares of Stratosphere Corporation stock (Stratosphere) and that Respondents failed to deliver units of Stratosphere.

Respondent Yaeger Securities, Inc. (Yaeger) alleged that Claimant's claims with respect to Yaeger are ineligible for arbitration pursuant to Section 12(d)(2) of the NASD Code as Claimant's claims against Yaeger are encompassed by a putative class action filed in federal court. Yaeger further denied any liability to Claimant and alleged that no one at Yaeger ever told Claimant that if he sent in money that he would be guaranteed shares of Stratosphere.

Union Equity Partners, Inc. alleged that it acted properly with respect to Claimant's investment; alleged that it had no control over how the syndicate allocation was ultimately handled; and alleged that the number of Stratosphere units received by Claimant was decided either by Yaeger or the principals of the issuer and not by Union Equity Partners, Inc.

#### RELIEF REQUESTED

At hearing, Claimant requested damages in the amount of \$30,000.00.

**OTHER ISSUES CONSIDERED AND DECIDED**

The presiding arbitrator heard and considered the oral and written positions of the parties relative to Yaeger's Motion to Dismiss pursuant to Section 12(d)(2) of the NASD Code. The presiding arbitrator accepted Claimant's sincere pledge to opt out of the subject class action, once certified, and denied Yaeger's Motion to Dismiss.

**AWARD**

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. All claims by Claimant are dismissed.
2. The parties shall each bear their respective costs with respect to the above-captioned matter.

**FORUM FEES**

Pursuant to Section 43(c) of the NASD Code, the following forum fees are assessed: The NASD shall refund the \$225.00 hearing session deposit previously deposited by the Claimant. Forum fees are assessed against Yaeger Securities, Inc., solely, in the amount of \$450.00, calculated as follows: Two hearing sessions times \$225.00/session.

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

**PRESIDING ARBITRATOR**

<u>Name</u>	<u>Public / Industry</u>
Jordan H. Bodenstein, Esq.	Public Arbitrator

Presiding Arbitrator's Signature

  
Jordan H. Bodenstein, Esq.

Date of Decision: 1/20/95