

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the matter of the Arbitration Between

Name of Claimant(s)

Yeh-Hua Peter Chuan

NASD Arbitration

No. 94-00968

Name of Respondent(s)

Kennedy, Cabot & Co.

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REPRESENTATION

For Claimant: Yeh-Hua Peter Chuan, Santa Monica, California

For Respondent: George Kupper, Esq., Kennedy, Cabot & Co., Beverly Hills, California

CASE INFORMATION

Statement of Claim filed: March 9, 1994

Claimant's Submission Agreement signed: March 3, 1994

Statement of Answer filed by Respondent: May 20, 1994

Respondent's Submission Agreement signed: May 20, 1994

HEARING INFORMATION

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

Hearing Date(s)/Session(s): March 14, 1995 (one session)

Hearing Location: Los Angeles, California

### CASE SUMMARY

Claimant asserted the following allegations regarding his investment in Three Five Systems Inc. (TFS) stock: 1) Through negligence or fraud, Respondent manipulated Claimant's trades that unfairly converted a capital gains that should have taken place in Claimant's account into a profit in favor of Respondent; 2) Respondent coerced Claimant into allowing Respondent to buy from the market to cover a short sale Claimant never ordered; and 3) Through negligence or fraud, Respondent jeopardized the status of Claimant's IRA account by ordering a short sale Claimant never made, exposing Claimant to losses and expenses from tax penalties and lost future returns that would have compounded over the next twenty-five years.

Respondent asserted that Claimant is not entitled to any alleged damages and alleged that Claimant has attempted to act in a fraudulent manner in order to take advantage of the increase in the TFS stock that Claimant sold at Kennedy, Cabot & Co. Respondent further alleged that Claimant's intent is shown by his purposely withholding information from Respondent in follow-up conversations concerning his trade. Respondent further alleged that it acted correctly and properly and is entitled to the three thousand five hundred eight dollars and nineteen cents (\$3,508.19) resulting from the debit short covering of Claimant's 1500 shares of TFS stock.

### RELIEF REQUESTED

Claimant requested damages totalling \$233,954.00 and further requested relief to correct the short cover record with respect to Claimant's account.

Respondent requested dismissal of Claimant's claims and that no costs or fees be imposed on Respondent.

### OTHER ISSUES CONSIDERED AND DECIDED

The parties have agreed that the Award in this matter may be executed in either 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 National Association of Securities Dealers, Inc. (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. Respondent Kennedy, Cabot & Co. is liable for and shall pay to Claimant the sum of \$3,508.19 in satisfaction of Claimant's claims.

2. Respondent Kennedy, Cabot & Co. is liable for and shall pay to Claimant the sum of \$200.00 as reimbursement of Claimant's filing fee.

3. The parties shall each bear their respective costs including attorney's fees.

#### **FORUM FEES**

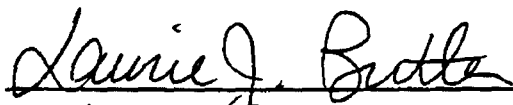
Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following forum fees are assessed: The NASD shall refund the \$750.00 hearing session deposit previously deposited by the Claimant. Forum fees are assessed against: Respondent, Kennedy, Cabot & Co. in the amount of \$750.00, calculated as follows: One hearing session times \$750.00/session.

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

#### **ARBITRATORS**

| <u>Name</u>            | <u>Public / Industry</u> |
|------------------------|--------------------------|
| Laurie J. Butler, Esq. | Public Arbitrator        |
| Philip W. Burge        | Public Arbitrator        |
| Walter N. Burenin      | Industry Arbitrator      |

Concurring Arbitrators' Signatures

  
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Laurie J. Butler, Esq.

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Philip W. Burge

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Walter N. Burenin

Date Served: 4/19/95

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