

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Names of Claimants

Gerald M. Ziemnicki and Joshua D. Wallach

94-01215

Name of Respondent

Piper Jaffray, Inc.

REPRESENTATION

For Claimants: Gerald M. Ziemnicki ("Ziemnicki") and Joshua D. Wallach ("Wallach") were represented at the hearing by John H. Wright, Esq. of Houston, Texas.

For Respondent: Piper Jaffray, Inc. ("Piper") was represented at the hearing by Mark S. Reed, Esq. of Piper Jaffray, Inc., Minneapolis, Minnesota.

CASE INFORMATION

Statement of Claim filed with the NASD on: March 30, 1994

Submission Agreement of Claimants Ziemnicki and Wallach was signed on: September 10, 1993.

Joint Statement of Answer of Respondent was filed with the NASD on or about: July 19, 1994.
Submission Agreement of Respondent Piper was signed on: July 19, 1994

HEARING INFORMATION

Prehearing Conference: None held.

Hearing Date/Sessions: January 19, 1995 for Two (2) Sessions.

Hearing Location: Houston, Texas.

CASE SUMMARY

In the Statement of Claim, Ziemnicki and Wallach alleged that Respondent Piper breached an oral contract to pay them a referral fee for introducing Piper to Community Health Computing Corporation ("CHC"), for the purpose of underwriting CHC's initial public offering of company stock.

In their Answer, Respondent Piper asserted that it never entered into a contract with Ziemnicki and Wallach for payment of a referral fee in connection with the CHC initial public offering. Furthermore, Piper argued that Ziemnicki and Wallach did not perform services that would entitle them to a fee under the purported contract.

RELIEF REQUESTED

Claimants Ziemnicki and Wallach requested damages in the amount of \$48,300; reasonable attorneys fees and costs; and any further and additional relief to which Claimants may show themselves justly entitled.

Respondent Piper requested that the Claim be denied in its entirety, and that Ziemnicki and Wallach be directed to reimburse Respondents for attorneys fees, costs, expenses, and such further relief as may be appropriate.

OTHER ISSUES CONSIDERED AND DECIDED

On January 18, 1995 a Motion to Dismiss was submitted to the Panel of arbitrators. After considering the Motion to Dismiss, the Panel decided that it would defer ruling on the motion until they had been presented with additional evidence at the hearing.

At the hearing, the Panel decided to allow the parties to submit post-hearing submissions on the issue of costs.

The parties agreed that the Award in this matter may be executed in 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 NASD.

AWARD

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

1. The Statement of Claim is denied in its entirety and Respondent Piper is hereby dismissed;
2. Claimants Ziemnicki and Wallach shall bear their own costs and expenses incurred, including attorneys fees, other than those specifically enumerated for herein;
3. Claimants Ziemnicki and Wallach are jointly and severally liable for and shall pay to Respondent Piper \$3,969.94 for expenses incurred by Piper;
4. Any relief not specifically provided for herein is denied.

FORUM FEES

Pursuant to Sections 44(c) and 45 of the Code of Arbitration Procedure, the following Forum Fees are assessed:

The NASD shall retain the claim filing fee of \$500.00 and the hearing session deposit in the amount of \$600.00 which was previously deposited with the NASD by Claimant. The NASD shall also retain the NASD member surcharge of \$200.00 submitted by Piper.

The Panel has ordered that Claimants shall be jointly and severally liable to the NASD for all of the Forum Fees.

(2) hearing sessions X \$600.00 = \$1,200.00 minus hearing session deposit of \$600.00 = \$600.00 net due. The Panel has ordered that Claimants shall be jointly and severally liable to the NASD for the additional forum fees in the amount of \$600.00.

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

By the Arbitration Panel:

Dated:

/s/ Thomas D. Tays, Esq.
Thomas D. Tays, Esq.
Industry Arbitrator
Chairperson

March 6, 1995

/s/ Robin S. Novak
Robin S. Novak
Industry Arbitrator

February 28, 1995

/s/ Timothy L. Andrews
Timothy L. Andrews
Public Arbitrator

March 1, 1995

Date Award served by the NASD: March 17, 1995