

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

David Jon Korotkin

94-01505

Name of Respondents

L.C. Wegard & Co.
Joseph Orlando
Neil White

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on April 22, 1994, Claimant David Jon Korotkin, who appeared Pro Se, alleged that Respondent Joseph Orlando of L.C. Wegard & Co. recommended he purchase 5,000 shares of USTS stock which did not move noticeably for months. Claimant further alleged that in September 1993, the stock surged and when he requested a sell order it was denied by Respondent Joseph Orlando. Claimant asserted that Respondent Neil White of L.C. Wegard & Co. then suggested he take over the Claimant's account, however when the Claimant wanted to sell the stock he was unable to reach Respondent Neil White and did not receive a reply to his calls. Claimant further asserted that when he spoke to Respondent White with regard to transferring his stock to another firm, he realized that despite two requests, the transfer was not completed in January 1994. Claimant contended that he then contacted Respondent L.C. Wegard & Co. in Pennsylvania and was informed he had to speak to Respondent White in order to sell. The Claimant further contended that he later agreed to have the certificates sent directly to him, and upon his receipt of the stock, he sent it directly to his new firm.

Respondents L.C. Wegard & Co., Joseph Orlando and Neil White, through their in-house counsel, Manfred Putzka, Esq., maintained that Respondent Orlando in fact recommended securities with long term growth potential and provided the Claimant with information concerning the investment, company involved, and the possible risks. Respondents further maintained that Claimant Korotkin looked on occasion for guidance and advice from Respondent Orlando, and Respondent Orlando therefore recommended not to sell USTS and Claimant Korotkin then determined not to place a sell order of his shares. Respondents maintained that

Claimant Korotkin gave a different account of the circumstances which occurred September 1993 in a October 19, 1993 letter to Respondent White. Respondents maintained that in that letter Claimant Korotkin claimed to have phoned Respondent Orlando about the price of USTS and upon hearing the price, instructed Orlando to sell. Respondents further maintained that in Claimant's Statement of Claim, Claimant alleged to have known the price and to have told Respondent Orlando he "wished" to sell. Respondents maintained that Claimant Korotkin did not issue a sell order. Respondents contended that when the Claimant was given advice that turned out to be correct, nothing is heard from him, but when it is not to his liking, he initiates legal proceedings, and further with regard to Claimant's transfer to Merrill Lynch, it was apparent that Merrill Lynch was not able to complete the required paperwork promptly enough to suit Claimant, therefore Respondent White offered to ship the certificates directly to Claimant Korotkin.

RELIEF REQUESTED

Claimant David Jon Korotkin requested \$9,075.00 in actual damages.

Respondents L.C. Wegard & Co., Joseph Orlando and Neil White requested that the claims of the Claimant be dismissed in its entirety.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Paul A. Yates, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on April 18, 1994, by Respondent L.C. Wegard & Co. on July 14, 1994, and by Respondents Joseph Orlando and Neil White on June 9, 1994.

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 the Claimant David Jon Korotkin against Respondents L.C. Wegard & Co., Joseph Orlando and Neil White are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant David Jon Korotkin shall be retained by the NASD, Inc.

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AFFIRMATION

I, PAUL A. YATES, do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.



Signature of Arbitrator PAUL A. YATES

DATE OF DECISION: February 9, 1995