

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Jeffrey B. Bartlam

95-00191

Name of Respondents

Kidder, Peabody & Co., Incorporated  
Douglas Black

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REPRESENTATION

For Claimant Jeffrey B. Bartlam ("Claimant"): Jeffrey P. Bloom, Esq., Metzger, Hollis, Gordon & Mortimer, Washington, D.C.

For Respondents Kidder, Peabody & Co., Inc. ("Kidder") and Douglas Black ("Black"): Robert A.W. Boraks, Esq., Boraks & Jamnback, Washington, D.C.

CASE INFORMATION

Statement of Claim filed: January 12, 1995  
Claimant's Submission Agreement signed on: January 12, 1995

Joint Statement of Answer filed by Kidder and Black (collectively "Respondents" on: March 7, 1995

Respondent Kidder Peabody's Submission Agreement was signed on: March 14, 1995

Respondent Douglas Black's Submission Agreement was signed on: March 16, 1995

HEARING INFORMATION

Hearing Dates/Sessions: January 30, 1996 - 2 sessions  
January 31, 1996 - 2 sessions  
March 29, 1996 - 2 sessions

Hearing Location: NASD, Inc.  
Washington, D.C.

CASE SUMMARY

Claimant, a former employee of Respondent Kidder Peabody, alleged that after his resignation from employment and departure to another securities firm, Respondents maliciously filed a false and fraudulent Form U-5 regarding the Claimant. Claimant alleged that such filing contained false and/or misleading information concerning an NASD arbitration claim against Kidder Peabody and the nature of Claimant's involvement in the circumstances leading to

that claim. Claimant alleged in this proceeding that by preparing and/or signing the U-5 form, Respondents engaged in conduct which was libelous, slanderous, and defamatory, and that the document was motivated by malice on the part of Respondent Black, and was prepared with the intent to inflict emotional distress upon Claimant.

Respondents denied all of Claimant's allegations of wrongdoing and malice. Respondents contended that the U-5 was appropriately completed, and that although Respondent Black signed the U-5 form on behalf of Respondent Kidder Peabody, the language used on the form was composed by individuals other than Respondent Black, without malice towards Claimant. Respondents maintained that all statements made were accurate and denied that any of their acts were done with malicious intent.

#### RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$1,750,000; punitive damages in the amount of \$500,000; and the amendment of Claimant's Form U-5 eliminating any mention of the American Board claim.

Respondent requested that the Statement of Claim be dismissed and that Claimant be assessed the costs of this arbitration as well as attorney's fees.

#### OTHER ISSUES CONSIDERED & DECIDED

The parties have 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, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. The claim of Claimant Jeffrey B. Bartlam is denied in its entirety.
2. Claimant's request for punitive damages is denied.
3. The parties shall bear their own costs and expenses.
4. Any relief not specifically addressed herein is denied.

**OTHER COSTS**

Respondent Kidder Peabody is assessed \$120.00 for audio tapes of the hearing.

**FORUM FEES**

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed:

6 sessions X \$1,000.00 = \$6,000.00.

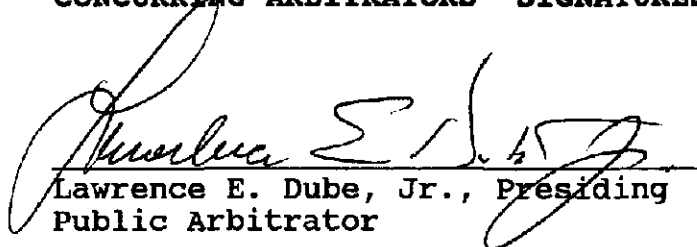
Forum fees are assessed against Claimant and jointly and severally against Respondents. Claimant is assessed \$4,000.00. Claimant is to receive credit for the \$1,000.00 hearing session deposit previously filed with the NASD. Therefore, Claimant has a net assessment due of \$3,000.00. Respondents, jointly and severally, are assessed \$2,000.00.

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

**DATE**

**CONCURRING ARBITRATORS' SIGNATURES**

4/15/96

  
Lawrence E. Dube, Jr., Presiding  
Public Arbitrator

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Leonard E. Benade  
Public Arbitrator

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Robert J. Benson  
Industry Arbitrator

Date Decision Served by NASD: April 18, 1996

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