

NASD AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Name of Claimant

Edward K. Peplinski

and

NASD Case Number: 95-01131

Name of Respondents

Tamaron Investments, Inc.
James Scott Blake

REPRESENTATION OF PARTIES

Claimant Edward K. Peplinski was represented by James A. Bolt, Esq., New Berlin, Wisconsin.

Respondent Tamaron Investments, Inc. was represented by Brad Ramming, Esq. of Overton, Babiarz & Sykes, P.C., Englewood, Colorado.

Respondent James Scott Blake appeared pro se.

CASE INFORMATION

The Statement of Claim was filed with the National Association of Securities Dealers, Inc. ("NASD") by Claimant Edward K. Peplinski on or about March 6, 1995.

The Amended Statement of Claim was filed with the NASD by Claimant Edward K. Peplinski on or about October 10, 1995.

Claimant's Submission Agreement was signed on January 24, 1995.

The Statement of Answer was filed with the NASD by Respondent Tamaron Investments, Inc. on or about May 4, 1995.

Respondent Tamaron Investments, Inc.'s Submission Agreement was signed on April 12, 1995 by Charles Kirby, Chairman of Tamaron Investments.

The NASD has no physical record that Respondent James Scott Blake filed a Statement of Answer. NASD computer records indicate that a Statement of Answer was filed by Respondent James Scott Blake on or about June 29, 1995.

The NASD has no record that Respondent James Scott Blake signed a Submission Agreement.

HEARING INFORMATION

The hearing was held on January 16, 1996 in Milwaukee, Wisconsin for two (2) sessions.

CASE SUMMARY

Claimant, Edward K. Peplinski ("Claimant") alleged that Respondent James Scott Blake ("Blake") contacted him by telephone to solicit the purchase of stock. Claimant alleged that Respondent Blake was a registered representative of Respondent Tamaron Investments, Inc. Claimant contended that he informed Blake of the fact Claimant was retired and lived on a fixed income. Claimant further alleged that he informed Blake that Claimant's investments were to be kept safe without risks to the principal. Claimant maintained that Blake solicited Claimant to purchase two stocks, Conversion Industries and Air Methods Corporation. Claimant maintained that these stocks were thinly traded and small capitalization stocks, neither of which were classified as investment grade securities. Claimant alleged that the purchase of 1500 shares of Air Methods was done without the prior authorization of Claimant. Claimant contended that during the four months that the account was opened the account was turned over 6.43 times. Claimant maintained that he suffered a loss in the amount of \$31,528.66.

Respondent, Tamaron Investments, Inc. denied any liability to Claimant in its Answer. Tamaron Investments alleged that Claimant advised Tamaron Investments in writing that his occupation was "investor," that his approximate net worth was 1.8 million, and that his approximate liquid net worth was \$750,000. Respondent Tamaron Investments contended that Claimant advised Tamaron Investments that Claimant had a high degree of investment experience. Respondent Tamaron Investments alleged that Claimant's calculation of turnover ratio was misleading and meaningless.

RELIEF REQUESTED

Claimant requested an award of compensatory damages in the amount of \$31,528.66, plus interest. Claimant also requested an award of reasonable attorney's fees.

Respondent Tamaron Investments requested that the Statement of Claim be dismissed in its entirety.

OTHER ISSUES CONSIDERED & DECIDED

Respondent James Scott Blake did not appear at the hearing.

The NASD has no physical record that Respondent James Scott Blake filed a Statement of Answer. NASD computer records indicate that a Statement of Answer was filed by Respondent James Scott Blake on or about June 29, 1995.

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Respondent James Scott Blake did not appear at the hearing.

Upon review of the file and the representations made on behalf of the Claimant, the undersigned arbitrators have determined that Respondent James Scott Blake has been properly served with the Statement of Claim pursuant to §13 and §25 of the NASD Code of Arbitration Procedure (the "Code"). The undersigned arbitrators have also determined that Respondent James Scott Blake had received due notice of the hearing as required under §26 of the Code and that arbitration of the matter would proceed pursuant to §29 of the Code.

Respondent James Scott Blake did not file with the NASD a properly executed submission to arbitration but is required to submit to arbitration pursuant to §12 of the NASD Code of Arbitration Procedure (the "Code") and is bound by the determination of the arbitration panel on all issues submitted.

Respondents, Charles Kirby and Baraban Securities were dismissed without prejudice on January 5, 1996.

The parties have agreed to receive conformed copies of the award while the original(s) 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. Respondents, Tamaron Investments, Inc. and James Scott Blake are jointly and severally liable and shall pay to Claimant Edward K. Peplinski compensatory damages in the amount of Twenty Nine Thousand One Hundred and Sixty Two Dollars and No Cents (\$29,162.00);
2. Respondents, Tamaron Investments, Inc. and James Scott Blake are jointly and severally liable and shall pay to Claimant Edward K. Peplinski interest in the amount of Two Thousand Six Hundred and Seventy Three Dollars and No Cents (\$2,673);
3. Respondents, Tamaron Investments, Inc. and James Scott Blake are jointly and severally liable and shall pay to Claimant Edward K. Peplinski attorney's fees in the amount of Two Thousand Dollars and No Cents (\$2,000);
4. Respondents Tamaron Investments and James Scott Blake shall pay all forum fees incurred in this matter;
5. The parties shall each bear their own costs and expenses incurred in this matter; and
6. Any relief not specifically enumerated is hereby denied.

FORUM FEES

Forum fees are calculated at the rate of \$400 per hearing session. There were two (2) hearing sessions x \$400 = \$800 in forum fees. Pursuant to §43(b) a hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with an arbitrator, which lasts four (4) hours or less.

Pursuant to §43(c) of the NASD Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. ("NASD") shall retain the non-refundable filing fee in the amount of \$120 previously deposited with the NASD by the Claimant. The NASD shall refund the hearing session deposit in the amount of \$400 previously deposited with the NASD by the Claimant. The NASD shall retain the Section 45 Member Surcharge in the amount of \$300.

Respondents Tamaron Investments, Inc. and James Scott Blake are assessed and shall pay to the NASD forum fees in the amount of \$800. Fees are payable to the National Association of Securities Dealers, Inc.

Concurring Arbitrators' Signatures

/s/ Stanley H. Michelstetter, II
Stanley H. Michelstetter, II
Chairperson
Public Arbitrator

February 21, 1996
Dated:

/s/ Thomas H. Sutter, Esq.
Thomas H. Sutter, Esq.
Panelist
Public Arbitrator

February 21, 1996
Dated:

/s/ Gerald A. Grossman
Gerald A. Grossman
Panelist
Industry Arbitrator

February 22, 1996
Dated:

For NASD use only:
Date award served on the parties: February 26, 1996