

5/19/95
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N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC

In the matter of the Arbitration Between

© National Association of
Securities Dealers Inc.

Name of Claimant(s)

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Edward E. Amende, Jr. and Janice Amende, Trustees
of The E.E. Amende Defined Benefit Pension
Plan

NASD Arbitration
No. 95-03114

Name of Respondent(s)

Thomas James Associates, Inc.
John F. Winnick
John M. Johnson

REPRESENTATION

For Claimants: R. Jeffrey Kelleher, Esq., California International
Law Chambers, Rancho Santa Fe, California

For Respondents Thomas James Associates, Inc. and John M. Johnson:
Paul J. Delmore, Esq., Edwards, White & Sooy, San Diego, California

For Respondent John F. Winnick: John F. Winnick, San Diego,
California

CASE INFORMATION

Statement of Claim filed: June 21, 1995

Claimants' Submission Agreements signed as follows:

Edward E. Amende, Jr. and Janice Amende, Individually: June
16, 1995

Edward E. Amende, Jr. and Janice Amende, Trustees: August 10,
1995

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Statement of Answer filed by Respondent H.J. Meyers & Co., Inc.
(also known as Thomas James Associates, Inc.) : October 17, 1995

Statement of Answer filed by Respondent John M. Johnson: February
2, 1996

Respondents' Submission Agreements signed as follows:

John M. Johnson: March 7, 1996

H.J. Meyers & Co., Inc. (also known as Thomas James
Associates, Inc.): August 31, 1995

Respondent John F. Winnick did not file a Statement of Answer and
Submission Agreement. However, he appeared at the hearing and is
subject to National Association of Securities Dealers, inc. (NASD)
jurisdiction in accordance with Section 12 of the NASD Code of
Arbitration Procedure.

HEARING INFORMATION

Pre-Hearing Conference Date(s)/Session(s) :

April 3, 1996 (one session)

Hearing Date(s)/Session(s): April 17, 1996 (two sessions)

April 18, 1996 (two sessions)

Hearing Location: San Diego, California

CASE SUMMARY

Claimants alleged the following claims with respect to
investments in various securities: 1) Unsuitability; 2) Churning;
3) Professional Negligence; 4) Breach of Fiduciary Duty; 5) Fraud;
6) Fraud; 7) Unregistered Securities; 8) Failure to Supervise; and
9) Discriminatory Apportionment.

In separately filed Statements of Answer, Respondents Thomas
James Associates, Inc. (TJA) and John M. Johnson denied the
allegations of wrongdoing made in Claimants' Statement of Claim and
alleged that the subject investments were suitable for Claimants'
account. Respondents further alleged that Claimant Edward E.
Amende was advised of the risks associated with Claimants'
investments and that Mr. Amende assumed such risks. Respondent TJA
also asserted affirmative defenses.

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RELIEF REQUESTED

On all claims, Claimants requested damages in the amount of \$86,100.75, representing the difference between the amounts invested and the final closing value of the account; plus interest at a suitable rate. On the churning claim, Claimants requested an award of fees, commissions, spreads, mark ups, or other compensation realized by Respondents. Claimants also requested punitive damages in the amount of \$100,000.00, attorneys fees, and costs of this arbitration.

Respondent TJA requested dismissal of Claimants' claims and requested costs and expenses.

Respondent John M. Johnson requested dismissal of Claimants' claims.

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 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. All claims by Claimants, including the claim for punitive damages, are dismissed.
2. The parties shall each bear their respective costs including attorney's fees.

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FORUM FEES


Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following forum fees are assessed: The NASD shall retain the \$750.00 hearing session deposit previously deposited by the Claimants. Forum fees are assessed against Claimants, in the amount of **\$2,550.00**, calculated as follows: One pre-hearing session times \$300.00 plus four hearing sessions times \$750.00 minus the \$750.00 retained by the NASD.

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

ARBITRATORS

<u>Name</u>	<u>Public / Industry</u>
Harvey C. Flodin, Esq.	Public Arbitrator
William D. Randolph	Public Arbitrator
Elizabeth C. Roenker	Industry Arbitrator

Concurring Arbitrators' Signatures



Harvey C. Flodin, Esq.

William D. Randolph

Elizabeth C. Roenker

Date of Decision: _____

Date Served: May 29, 1996

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ARBITRATORS

<u>Name</u>	<u>Public / Industry</u>
Harvey C. Flodin, Esq.	Public Arbitrator
William D. Randolph	Public Arbitrator
Elizabeth C. Roenker	Industry Arbitrator

Concurring Arbitrators' Signatures

Harvey C. Flodin, Esq.

William D. Randolph
William D. Randolph

Elizabeth C. Roenker

Date of Decision: _____

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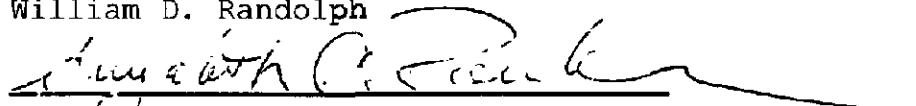
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<u>Name</u>	<u>Public / Industry</u>
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William D. Randolph	Public Arbitrator
Elizabeth C. Roenker	Industry Arbitrator

Concurring Arbitrators' Signatures

Harvey C. Flodin, Esq.

William D. Randolph


Elizabeth C. Roenker

Date of Decision: 4/18/96

Date Served: May 29, 1996