

## NASD AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

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In the Matter of the Arbitration Between

Name of Claimant

Jack J. Grynberg

and

95-03737

Name of Respondent

Whale Securities Co., Inc.  
Wayne Coy

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### REPRESENTATION OF PARTIES

Jack J. Grynberg ("**Claimant**") was represented by Jeff Reiman, Esq. and Jeffrey M. Brenman, Esq., Reiman & Associates, P.C., Denver, Colorado.

Whale Securities Co., Inc. ("**Respondent Whale**") was represented by David S. Richan, Esq., Tenzer Greenblatt LLP, New York, New York.

Wayne Coy ("**Respondent Coy**") was represented by David Crystal, II, Esq., Gilbride, Tusa, Last & Spellane, LLC, New York, New York.

### CASE INFORMATION

The Statement of Claim was filed on or about August 2, 1995. Submission Agreement of Claimant Jack J. Grynberg was signed on July 25, 1995.

Statement of Answer and Motion to Dismiss was filed by Respondent Whale Securities Co., Inc. on or about October 6, 1995.

Statement of Answer was filed by Respondent Wayne Coy on or about September 22, 1995. Submission Agreement of Respondent Wayne Coy was signed on September 18, 1995.

### HEARING INFORMATION

A pre-hearing conference was held on June 6, 1996 with Steven Meyrich, Esq., presiding.

The hearing was held on Wednesday, June 19, 1996 for two (2) sessions and Thursday, June 20, 1996 for two (2) sessions in Denver, Colorado for a total of sessions.

### **CASE SUMMARY**

Claimant alleged that a sale of Jetform Corporation and the purchase of shares of Blue Chip Computer made in his account were unauthorized transactions.

Respondent Whale denied the allegations set forth in the Statement of Claim. Respondents stated upon information and belief, all transactions identified in the Statement of Claim were carried out in accordance with the Claimant's instructions and in conformity with the applicable rules, regulations and practices.

Respondent Coy denied the allegations set forth in the Statement of Claim. Respondent Coy specifically stated that contrary to the allegations of Claimant, the transactions at issue were fully discussed with and authorized by the Claimant. It was further stated that after fully discussing the merits of the transactions, Claimant agreed and gave Respondent Coy express authorization to make the trades, using the proceeds from the sale of Jetform to purchase the shares of Blue Chip.

### **RELIEF REQUESTED**

Claimant requested an award of actual damages to be proven at the hearing of this matter; pre- and post judgment interest at the statutory rate; costs; reasonable attorneys' fees; and punitive damages.

Respondent Whale requested that the claims asserted against it be dismissed and that it be awarded its' costs and attorneys' fees.

Respondent Coy requested that the claims asserted against him be dismissed and that he be awarded his costs, expenses and attorneys' fees as well as such further relief that the panel deems appropriate.

### **OTHER ISSUES CONSIDERED & DECIDED**

Respondent Whale Securities, Inc. 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 having answered the claim, appeared and testified at the hearing is bound by the determination of the arbitration panel on all issues submitted.

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 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. The panel finds in favor of the Respondents and against Claimant on all claims because Claimant failed to prove his case by a preponderance of the evidence.
2. Each party shall bear its own costs, expenses and attorneys' fees incurred in this matter not specifically enumerated herein.

### **FORUM FEES**

Forum fees are calculated at the rate of \$600 per hearing session and \$300 for each prehearing conference, if any. There was one (1) session x \$300 and were four (4) sessions x \$600 = \$2,700 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 \$250 and shall **retain** as forum fees the hearing session deposit in the amount of \$600 previously deposited with the NASD by the Claimant Jack J. Grynberg. Claimant Jack J. Grynberg shall be and hereby is liable for and shall pay to the NASD the sum of \$750 as forum fees. Respondents Whale Securities, Inc. and Wayne Coy shall be and hereby are jointly and severally liable for and shall pay to the NASD the sum of \$1,350 as the balance due for forum fees.

Pursuant to §45 of the NASD Code of Arbitration Procedure, the NASD shall **assess** against Respondent Whale Securities, Inc. the non-refundable member surcharge in the amount of \$300. **Fees are payable to the National Association of Securities Dealers, Inc.**

/s/ Steven Meyrich, Esq.  
Steven Meyrich, Esq.  
Public Arbitrator, Presiding Chair

Dated: June 24, 1996

/s/ James J. Cronin, Esq.  
James J. Cronin, Esq.  
Public Arbitrator  
/s/ Gerald W. Wischmeyer, Esq.  
Gerald W. Wischmeyer, Esq.  
Industry Arbitrator

June 25, 1996  
June 27, 1996