

NASD AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Jeffrey S. Whitney

Claimant

NASD Arbitration

v.

No. 95-03856

Financial West Group

James W. Anderson

Respondents

REPRESENTATION OF PARTIES

Jeffrey S. Whitney ("Claimant") represented himself, pro se.

Financial West Group and James W. Anderson ("Respondents") were represented by H. Thomas Fehn, Fields Fehn & Sherwin, Los Angeles, California.

CASE INFORMATION

Claimants Statement of Claim was filed on or about August 8, 1995. Claimants Submission Agreement was signed on August 4, 1995.

Respondents Financial West Group and James W. Anderson's Joint Statement of Answer was filed on or about September 25, 1995. The Submission Agreement for Financial West Group was signed on September 18, 1995. The Submission Agreement for James W. Anderson was signed on September 18, 1995.

HEARING INFORMATION

The hearing was held on April 25, 1996 in San Francisco for a total of 2 sessions.

CASE SUMMARY

Claimant alleged that the Respondents filed a erroneous U-5 form that has effectively prevented the Claimant from successfully gaining employment elsewhere in the securities industry. Claimant also alleged that the statement made in the U-5 form by the Respondents defamed him.

Respondent denied the allegations set forth in the Statement of Claim. Respondents specifically argued that the Claimant violated the NASD Rules of Fair Practice and that the U-5 reporting on that issue was accurate.

RELIEF REQUESTED

Claimant requested an award in the amount of \$36,000 for loss of earnings, and \$1,750 in costs. Additionally, Claimant requested that his CRD record be expunged.

Respondent requested that the claims asserted against it be denied in its entirety and that it be awarded its costs and attorneys' fees.

OTHER ISSUES CONSIDERED & DECIDED

On May 22, 1996, the parties were directed to submit a brief of the the status of SEC Investigation LA-672. Claimant's brief was submitted on May 29, 1996. Respondents brief was submitted on May 30, 1996. Claimant filed a response to Respondents brief on June 4, 1996.

The parties have agreed that a handwritten, signed Award may be entered. The parties have agreed to receive conformed copies of the award while the original remains on file with the NASD.

AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing and the post-hearing submissions, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Each and every claim of the Claimant for monetary damages is dismissed
2. Claimant's request for punitive damages is denied
3. Each side must bear their own attorney's fees and costs.
4. The panel determined that the U-5 record of Jeffrey S. Whitney be expunged of any reference to the "Internal Review" initiated by Financial West Group and any reference to the S.E.C. Investigation, Case No. LA-672. Further, the panel has determined that the reason for termination from Financial West Group be changed to read "Discharged for allegations which were investigated by the NASD who determined no action was warranted and the matter closed."

FORUM FEES

Forum fees are calculated at the rate of \$600 per hearing session and \$300 for each pre-hearing conference, if any. There were 2 sessions x \$600 = \$1,200 in forum fees. Pursuant to §43(b) of the NASD Code of Arbitration Procedure (the "Code"), 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 Code of Arbitration Procedure, the parties shall divide

the forum fees 50%-50%, with the claimant bearing 50%, and the respondents jointly and severally bearing 50%.

Total Fees	
2 Hearing Sessions @ \$600.00 =	\$1,200.00
Total	<u>\$1,200.00</u>

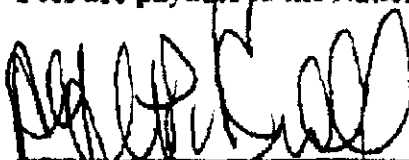
Claimant's 1/2 share	\$600.00
Claimant's credit for deposit	<u>\$600.00</u>
Claimant's balance	\$ -0.00-

Respondent's 1/2 share	<u>\$600.00</u>
Respondent's Balance	\$600.00

Pursuant to §43(c) of the Code, the NASD shall retain the non-refundable filing fee in the amount of \$500 and shall retain as forum fees the hearing session deposit in the amount of \$600 previously deposited with the NASD by the Claimant Jeffrey S. Whitney.

Pursuant to §45 of the Code, the NASD shall retain the member surcharge fee in the amount of \$200 previously paid by Financial West Group.

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



Alfred P. Knoll, Esq.
Public Arbitrator, Presiding Chair

Dated:

6/20/96

Peter H. Daly
Public Arbitrator

Blake Weston, Esq.
Industry Arbitrator

Date Served: June 28, 1996

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Respondent's 1/2 share	<u>\$600.00</u>
Respondent's Balance	\$600.00

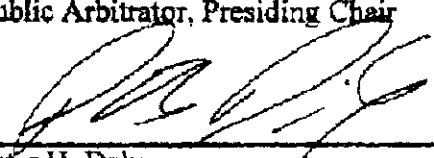
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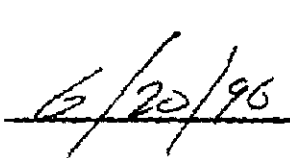
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Respondent's 1/2 share	<u>\$600.00</u>
Respondent's Balance	\$600.00

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Alfred P. Knoll, Esq.
Public Arbitrator, Presiding Chair

Peter H. Daly
Public Arbitrator

Blake Weston
Blake Weston, Esq.
Industry Arbitrator

June 17, 1996

Date Served: June 28, 1996

NASD ORDER

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Jeffrey S. Whitney

Claimant

NASD Arbitration

No. 95-03856

v.

Financial West Group

James W. Anderson

Respondents


ORDER OF EXPUNGEMENT

In light of the fact that all issues surrounding the U-5 filings made by Financial West Group on the record of Jeffrey S. Whitney were adjudicated in the above referenced case, and in light of the fact that the panel determined that the U-5 file of Jeffrey S. Whitney shall be expunged of any reference to the above referenced matter, it is hereby ORDERED:

That the U-5 record of Jeffrey S. Whitney be expunged of any reference to the "Internal Review" initiated by Financial West Group and to any reference to the S.E.C. Investigation, Case No. LA-672 contained in the National Association of Securities Dealers, Inc.'s Central Registration Depository. Further, that the reason for termination from Financial West Group be changed to read "Discharged for allegations which were investigated by the NASD who determined no action was warranted and the matter closed."

ARBITRATORS

Dated:



Alfred P. Knoll, Esq.
Public Arbitrator, Presiding Chair

6/20/96

Peter H. Daly
Public Arbitrator

Blake Weston, Esq.
Industry Arbitrator

Date Served: June 28, 1996

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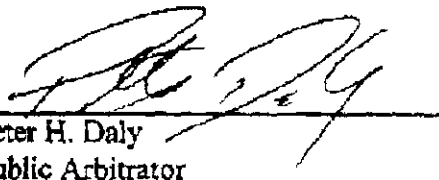
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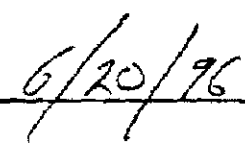
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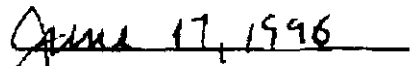
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