

N.A.S.D. MODIFIED AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Name of Claimant

David Selin

95-03866

Name of Respondents

Lee Blackwell
Chatfield Dean & Co., Inc.

REPRESENTATION

For Claimant David Selin ("Selin"): Alan Grunspan, Esq. of Kaufman Miller Dickstein & Grunspan P.A., Miami, Fl.

For Respondents Lee Blackwell ("Blackwell") and Chatfield Dean & Co., Inc. ("Chatfield"): Christa Taylor, Esq. of Chatfield.

CASE INFORMATION

Statement of Claim filed: August 9, 1995. Claimant's Submission Agreement signed on: August 18, 1995.

Statement of Answer filed by Respondent, August on: October 16, 1995 and amended on August 22, 1996. Respondent, Chatfield's Submission Agreement signed on: October 13, 1995 by S. Cheryl Bauman on behalf of Chatfield. Respondent, Blackwell's Submission Agreement signed on: October 12, 1995.

HEARING INFORMATION

On September 30, 1996 a pre-hearing conference lasting one session was conducted with the Chairman.

On October 28, 29, and 30, 1996 in Ft. Lauderdale Florida and on November 18, 1996 via telephone, hearings lasting 7 sessions were conducted.

CASE SUMMARY

Claimant alleged that, in April, 1993 Selin purchased 41,667 shares in a private placement for Aspen Marine Group, Inc. ("Aspen") for \$125,000.00. Selin's purchase was made after being solicited by his broker, Blackwell, as a representative of Chatfield. Selin alleged fraudulent representations by Blackwell to induce his purchase based upon a secondary offering by Chatfield which was represented as a "done deal" (at a time when it was not) which was represented to occur within 90-120 days from the date Selin purchased the shares. Selin's shares were to be sold as part of the secondary offering. When the secondary offering did not occur, Selin's shares became worthless. Selin sought an award finding Blackwell and Chatfield liable under Chapter 517 of the Florida statutes and for fraud and breach of fiduciary duty.

Respondents alleged that Claimant is a wealthy man with substantial income and net worth and has extensive investment experience. Respondents alleged that Aspen completed its initial public offering in April 1989, not 1993 and that in May 1992 the company raised additional capital through a secondary offering. In early 1993, Aspen had no working capital and signed a letter of intent in February asking Chatfield for help in raising 5 to 7 million dollars in capital in a secondary offering through the sale of 1,200,000 shares at a contemplated offering price of between \$4.50 and \$5.50 per share. Respondents alleged that the letter of intent contained a customary clause indicating that the letter was not a binding agreement and that Chatfield had the right not to go through with the proposed offering should circumstances warrant. Respondents alleged that Claimant did not purchase his shares in an initial public offering, but rather in a private placement in March 1993 directly from Aspen. Claimant is alleged to have signed a subscription agreement acknowledging that he had received various documents from Aspen prior to subscribing, including the letter of intent.

Chatfield alleged that it did not refuse to proceed with the offering as claimed by Claimant but, instead, while Chatfield was doing its due diligence work prior to committing to underwrite the offering, Aspen was approached by an investment banking firm which offered to purchase 1,400,000 shares from Aspen. Aspen chose to get financing through said firm and did not pursue a secondary offering through Chatfield. Aspen eventually refused to register Claimant's stock despite Blackwell's pleas to do so. Respondents alleged that any wrongdoing was committed by Aspen and not by Respondents. Respondents asserted various affirmative defenses including: failure to state a claim, statutes of limitations, waiver, estoppel, laches, and failure to mitigate damages.

RELIEF REQUESTED

Claimant requested damages in the amount of \$125,000.00 plus punitive damages, interest, and costs.

Respondents requested dismissal of the claim.

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 and post hearing submissions (if any), the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents are found liable, jointly and severally, and shall pay to Claimant the amount of \$50,000.00. This award is based upon the claim of common law fraud, as asserted by Claimant in Paragraphs 2,3,4 and 5 of its Statement Of Claim.
2. Claimant's requests for interest, costs, and punitive damages are denied.

OTHER COSTS

Other than the forum fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding.

FORUM FEES

Pursuant to Rule 10332(c) (formally Section 43(c)) of the Code of Arbitration Procedure, the panel has assessed Forum Fees in the amount of \$5,550.00 (7 sessions x \$750.00 per session plus \$300.00 for the prehearing conference).

1. Respondent, Chatfield is hereby assessed \$5,550.00 of which \$750.00 shall be paid directly to the Claimant as a refund of his hearing session deposit and \$4,800.00 of which shall be paid to the NASD.
2. The NASD shall retain the \$200.00 non-refundable filing fee and the \$750.00 hearing session deposit previously paid by Claimant.

Page Four

Concurring Arbitrators' Signatures

Public/Chairman

Industry

Public

Date of Modified Decision: June 24, 1997