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N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Michael R. Kay

95-04618

Name of Respondent

\*Legg Mason Wood Walker, Inc

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Securities Dealers, Inc.

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REPRESENTATION

Claimant Michael R. Kay ("Claimant") was represented at the hearing by Leonard R. Goldstein, Esq. and Robert Olsen, Esq. of Law Offices of Goldstein and Baron, College Park, MD.

Respondent Legg Mason Wood Walker ("Legg Mason") was represented at the hearing by Donald J. McCartney of Law Offices of Donald J. McCartney, Columbia, MD.

CASE INFORMATION

The Statement of Claim was filed on September 28, 1995.  
Claimant's Submission Agreement was signed on September 11, 1995.

The Statement of Answer was filed on December 26, 1995.  
Respondent's Submission Agreement was signed on December 20, 1995.

HEARING INFORMATION

Hearing Date/Sessions: June 6, 1996 - two sessions

Hearing Location: NASD Executive Offices  
Washington, DC

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### CASE SUMMARY

Claimant alleged, among other things, that based on a telephone call from his cousin, an account executive at Legg Mason, he opened a margin account at Legg Mason on or about April 5, 1994 and purchased 4,000 shares of class B common stock of SPI Holding, Inc. d/b/a Spectravision for a purchase price of \$24,934.58. Claimant alleged that Respondent omitted to disclose material facts which would have made statements in the said telephone call not misleading. Claimant also alleged that Respondent failed to provide required margin account disclosures; failed to obtain a statement of Claimant's investment objectives, completed or signed by Claimant; and that Respondent failed to perform a due diligence investigation of Spectravision before the Account Executive recommended it.

Respondent maintained, among other things, that Claimant, an experienced real estate executive and investor, requested that his account with Respondent be a margin account. Respondent maintained that the account executive had followed Spectravision for several months and based his recommendation on the research and recommendation of Donaldson, Lufkin and Jenrette. Respondent maintained that the price of Spectravision had dropped below \$5 per share soon after the purchase at which time Claimant was required to pay the balance in his margin account. Respondent maintained that thereafter, the account executive provided Claimant with regularly updated information based on consultation with Respondent's management, the analyst covering the company and other brokers at the firm. Respondent maintained that Claimant elected to hold the stock during a steady decline. Regarding the specific allegations of Claimant, Respondent maintained that the account representative made no material misrepresentations; the account representative was not obliged to recommend only securities recommended by Respondent; the margin agreement acknowledging receipt of the required margin disclosure was signed by Claimant; and the account representative, as cousin and friend, was familiar with the financial status of Claimant.

### RELIEF REQUESTED

Claimant requested that the transaction be rescinded and that he be awarded \$24,934.58, plus interest and attorneys' fees, and such punitive or exemplary damages as may be deemed proper.

Respondent requested that an award be entered in its favor and that the costs of this arbitration be assessed against Claimant.

### AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. That Claimant's claim is denied in its entirety.
2. That the parties shall bear their respective costs and attorneys' fees, except as forum fees are addressed below.
3. Claimant's claim for punitive or exemplary damages is denied.

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**FORUM FEES**

Pursuant to Section 10332(k) of the Code of Arbitration Procedure, the following Forum Fee(s) are assessed.

2 sessions X \$300 = \$600


Forum fees are assessed equally between both parties. Claimant is assessed forum fees in the amount of \$300, however, Claimant is entitled to offset this amount with his hearing session deposit of \$300 previously filed so that no fees are due from Claimant. Respondent is assessed forum fees in the amount of \$300.

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

Date

7/17/96

Arbitrator's Signature

  
Albert D. Shurtevant, Esq., Presiding  
Public Arbitrator

Date Award Served by the NASD:

July 22, 1996