

2/9/96

9608.145

NASD AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Delmar and Jean Pittman,
Harriet Busdicker, Janice Bonneville,
Marlene D. Staples, and
Dean and Rita M. Schuster,

Claimants,

v.

No. 95-04949

Craig-Hallum, Inc., and
Hamilton Investments, Inc.,

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Securities Dealers, Inc.

Respondents.

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REPRESENTATION OF PARTIES

Claimants Delmar and Jean Pittman, Harriet Busdicker, Janice Bonneville, Marlene D. Staples, and Dean and Rita M. Schuster were represented by Stephen P. Kelly, Esq. and Denis E. Grande, Esq. of Mackall, Crounse and Moore located in Minneapolis, Minnesota.

Respondents Craig-Hallum, Inc. and Hamilton Investments, Inc. were represented by Lawrence T. Hofmann, Esq. of Zelle & Larson located in Minneapolis, Minnesota.

CASE INFORMATION

Claimants Delmar and Jean Pittman, Harriet Busdicker, Janice Bonneville, Marlene D. Staples, and Dean and Rita M. Schuster's Joint Statement of Claim was filed on or about October 16, 1995.

Claimants Delmar and Jean Pittman's Submission Agreement was signed on October 4, 1995.

Claimant Harriet Busdicker's Submission Agreement was signed on October 5, 1995.

Claimant Janice Bonneville's Submission Agreement was signed on October 11, 1995.

Claimant Marlene D. Staples' Submission Agreement was signed on October 4, 1995.

Claimants Dean and Rita M. Schuster's Submission Agreement was signed on October 4, 1995.

Respondents Craig-Hallum, Inc. and Hamilton Investments, Inc.'s Joint Statement of Answer was filed on or about December 13, 1995.

Respondents Craig-Hallum, Inc. and Hamilton Investments, Inc.'s Submission Agreement was signed on December 12, 1995 by Lawrence T. Hofman, Esq. attorney for Hamilton Investments, Inc. and Craig-Hallum, Inc.

HEARING INFORMATION

A prehearing conference was held on May 20, 1996 for one (1) session and on June 26, 1996 for one (1) session.

The hearing was held on: May 22, 1996 for three (3) sessions; May 23, 1996 for two (2) sessions; and May 24, 1996 for two (2) sessions; July 8, 1996 for two (2) sessions; July 9, 1996 for two (2) sessions. The hearing was held in Minneapolis, Minnesota for a total of eleven (11) sessions.

CASE SUMMARY

Claimants Delmar and Jean Pittman, Harriet Busdicker, Janice Bonneville, Marlene D. Staples, and Dean and Rita M. Schuster ("Claimants") alleged that Respondents Craig-Hallum, Inc. and Hamilton Investments, Inc. ("Respondents") failed to advise them of the risks associated with buying and retaining shares of stock in Continental Savings of America ("Continental"). Continental was put into receivership in June 1994 and its shares of stock became worthless. Claimants asserted that Respondents ignored the financial trouble Continental was in, which allegedly worsened over time, and that Respondents never advised them to sell, but rather advised them to hold their shares of Continental. Subsequently, Claimants claim damages as the result of Respondent's recommendations. Claimants made the following legal claims: (1) violation of Rule 10b-5 of the Securities and Exchange Act of 1934; (2) violation of Minn. Stat. § 80A.01 et. seq., The Minnesota Blue Sky Act; (3) violation of Article III § 2 of the NASD Rules of Fair Practice; (4) breach of fiduciary duty; (5) violation of Minn. Stat. § 325F.69, subd. 1; Prevention of Consumer Fraud Act; (6) fraud; (7) negligent misrepresentation; and (8) punitive damages.

Respondents denied the allegations set forth in the Statement of Claim. Respondents objected to the joinder of the claims because the Claimants purchased their stock at different times, in different amounts, through different registered representatives and, for varying reasons. Respondents specifically contended that Claimants relied on research reports which expressly stated that such reports do not contain all information, are only an opinion that is subject to change, and that more information is available upon request. Respondents claim that Claimants never sought the additional information. Furthermore, Respondents contend that all information in the research reports were accurate with respect to revenues and earnings, write down of securities, and all other relevant financial information. Respondents stated that Claimants' alleged misrepresentations were only predictions, which, allegedly, the entire marketplace failed to predict correctly.

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RELIEF REQUESTED

Claimants Delmar and Jean Pittman requested damages against Respondent Hamilton Investments, Inc. in the amount of \$1 1,115.50 plus interest, costs, reasonable attorneys' fees, and punitive damages in an amount that is just and equitable.

Claimant Harriet Busdicker requested damages against Respondent Hamilton Investments, Inc. in the amount of \$9,125.00 plus interest, costs, reasonable attorneys' fees, and punitive damages in an amount that is just and equitable.

Claimant Janice Bonneville requested damages against Respondent Hamilton Investments, Inc. in the amount of \$8250.00 plus interest, costs, reasonable attorneys' fees, and punitive damages in an amount that is just and equitable..

Claimant Marlene D. Staples requested damages against Respondent Hamilton Investments, Inc. in the amount of \$3,728.00 plus interest, costs, reasonable attorneys' fees, and punitive damages in an amount that is just and equitable.

Claimants Dean and Rita M. Schuster requested damages against Respondent Hamilton Investments, Inc. in the amount of \$6,475.00 plus interest, costs, reasonable attorneys' fees, and punitive damages in an amount that is just and equitable.

Respondents Craig Hallum, Inc. and Hamilton Investments, Inc. requested that the claims asserted against them be denied in their entirety and that they be awarded their costs and attorneys' fees.

OTHER ISSUES CONSIDERED & DECIDED

Claimants submitted an Amended Statement of Claim dated May 22, 1996 that was allowed by the panel.

Respondents moved to deny the offered testimony of Allen G. Bortel as an expert witness because of Rodman and Renshaw's (his employer) failed to comply with the panel's order to produce documents for cross examination purposes. This motion was granted and Allen G. Bortel was not allowed to testify.

Claimants moved that the panel immediately refer the failure of the firms Advest, Inc. and Rodman and Renshaw's failure to comply with the panel's order to produce documents to the NASD for disciplinary proceedings. The panel ruled that it would follow the NASD policy concerning disciplinary referrals and denied the motion. However, the panel agreed to reconsider the motion following conclusion of the hearing.

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 posthearing submissions, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

(1) That Respondents Craig-Hallum, Inc. and Hamilton Investments, Inc. are jointly and severally liable and shall pay Claimants Delmar and Jean Pittman **\$4,638.00** in actual damages plus interest at 6% from November 9, 1993 to July 9, 1996 and at the legal rate after July 9, 1996;

(2) That Respondents Craig-Hallum, Inc. and Hamilton Investments, Inc. are jointly and severally liable and shall pay Claimant Harriet Busdicker **\$1,500.00** in actual damages plus interest at 6% from November 9, 1993 to July 9, 1996 and at the legal rate after July 9, 1996;

(3) That Respondents Craig-Hallum, Inc. and Hamilton Investments, Inc. are jointly and severally liable and shall pay Claimant Janice Bonneville **\$625.00** in actual damages plus interest at 6% from November 9, 1993 to July 9, 1996 and at the legal rate after July 9, 1996;

(4) That Respondents Craig-Hallum, Inc. and Hamilton Investments, Inc. are jointly and severally liable and shall pay Claimant Marlene D. Staples **\$675.00** in actual damages plus interest at 6% from November 9, 1993 to July 9, 1996 and at the legal rate after July 9, 1996;

(5) That Respondents Craig-Hallum, Inc. and Hamilton Investments, Inc. are jointly and severally liable and shall pay Claimant Dean and Rita M. Schuster **\$1,137.50** in actual damages plus interest at 6% from November 9, 1993 to July 9, 1996 and at the legal rate after July 9, 1996;

(6) That Respondents Craig-Hallum, Inc. and Hamilton Investments, Inc. are jointly and severally liable and shall pay Claimants' attorneys' fees in the amount of **\$5,000.00**; and

(7) That other than forum fees, which are addressed below, all other claims and requests for relief not specifically awarded are, and each of them, hereby denied with prejudice.

FORUM FEES

Forum- fees are calculated at the rate of \$400 per hearing session and \$300 for each prehearing conference, if any. There were two (2) prehearing sessions x \$300 = \$600 in forum fees, and there were eleven (11) hearing sessions x \$400 = \$4,400 Total hearing fees are \$600 + \$4,400 = \$5,000 less the \$400 previously paid by Claimant. 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 prehearing conference with an arbitrator, which lasts four (4) hours or less.

Pursuant to §43(c) of the Code, the NASD shall retain the non-refundable filing fee in the amount of \$120 and shall retain as forum fees the hearing session deposit in the amount of \$400 previously deposited with the NASD by the Claimants.

Pursuant to §45 of the Code, the NASD shall retain the member surcharge fee previously paid.

Respondents Craig-Hallum, Inc. and Hamilton Investments, Inc. are jointly and severally liable for and shall pay Claimants \$400 as reimbursement for their hearing session deposits.

Additional forum fees in the amount of \$4,600 are assessed jointly and severally against Respondents Craig-Hallum, Inc. and Hamilton Investments, Inc.

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

Dated:

/s/ D. Randall Blohm

7-31-96

D. Randall Blohm, Esquire
Public Arbitrator, Presiding Chair

/s/ Richard G. Behling

August 1, 1996

Richard G. Behling
Public Arbitrator

/s/ Edward J. Hentges

July 31, 1996

Edward J. Hentges
Industry Arbitrator

For NASD Use Only
Date of Service by the NASD: August 7, 1996

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NASD DISCIPLINARY REFERRAL

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

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No. 95-04949

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Respondents.

Report of Arbitrators

During the course of the hearing of the above captioned matter, the undersigned arbitrators heard evidence which warrants this referral for investigation of a non-party. The undersigned feel that an investigation of **Advest, Inc.** and **Rodman & Renshaw** (non-parties and member firms) is warranted for their failures to comply with the arbitration panel's Rule 33(b) orders issued pursuant to the N.A.S.D. Code of Arbitration Procedure.

Dated:

/s/ Randall Blohm

7-31-96

**D. Randall Blohm, Esquire
Public Arbitrator, Presiding Chair**

/s/ Richard G. Behling

Aug. 1, 1996

**Richard G. Behling
Public Arbitrator**

/s/ Edward J. Hentges

7-31-96

**Edward J. Hentges
Industry Arbitrator**