

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Barbara Graham and Lerry Graham

95-05508

Name of Respondent(s)

Hunter International Securities Inc
Howard Cochran Jones
Edward Charles William Donner, III
Edward Rogers

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on November 20, 1995, Claimants Lerry and Barbara Graham, who appeared Pro Se, alleged that Respondents Hunter International Securities, Inc., Howard Cochran Jones and Edward Charles William Donner, III, through their registered representative, Edward Rogers ("Rogers"), convinced them to purchase in three separate transactions, a total of 11,000 shares of Sky Scientific stock. The Claimants asserted that Respondent Rogers represented the stock to be a sure thing, but in the end of 1994 they received an Audit Report which questioned the ability of the firm to stay in business. The Claimants also asserted that they were talked out of selling their investment every time they contacted the Respondents, and further that they were misled by the Respondents due to their failure to perform due diligence in examining this company. The Claimants contended that Respondent Rogers misinformed them about Sky Scientific, that he lied at times about the stock, and that he failed to comply with SEC regulations by not getting financial information regarding his clients and failed to ensure their stock purchases were appropriate. Claimants Lerry and Barbara Graham further contended that due to the wrongdoing of the Respondents, they suffered damages for which they Respondents should be held liable.

Respondents Hunter International Securities, Inc. ("Hunter") and Edward Rogers, through their representative and counsel, Howard A. Tescher, Esq., of Kipnis Tescher Lippman Valinsky & Kain, Fort Lauderdale, FL, maintained that they acted properly in their dealings with Claimants and that Claimants were provided with all information available to Hunter which was produced and prepared by Sky Scientific, Inc. The Respondents also maintained that Claimants reviewed the information before electing to purchase shares of the stock. Respondents contended that they committed no wrongdoing, and therefore the claims against them should be dismissed.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents Howard C. Jones and Edward Charles William Donner, III, through their counsel, Howard A. Tescher, Esq., filed a Motion to Dismiss, wherein they asserted that Claimants failed to mention any allegations against these Respondents. The Motion to Dismiss is denied. In addition, the Arbitrator determined that no separate Statement of Answer was necessary.

Respondents Hunter International Securities, Inc., and Edward Rogers requested a hearing in this matter. The Arbitrator denied the request. Therefore, the Arbitrator's decision was based on the documentary evidence.

RELIEF REQUESTED

Claimants Lerry and Barbara Graham requested \$10,000.00 in actual damages.

Respondent Hunter International Securities, Inc., Edward William Charles Donner, III, Howard C. Jones and Edward Rogers requested that the claims of the Claimant be dismissed.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, F. Conger Fawcett, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on November 4, 1995, by the Respondent Hunter International Securities Inc. on February 21, 1996, by the Respondent Howard C. Jones on December 13, 1995, by the Respondent Edward C.W. Donner, III on February 21, 1996 and by the Respondent Edward Rogers on January 17, 1996.

And, the Arbitrator, having considered the proof of the parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Respondents Hunter International Securities, Inc., Edward W.C. Donner, III, Howard C. Jones and Edward Rogers are jointly and severally liable and shall pay to Claimants Lerry and Barbara Graham \$4,605.00 in actual damages, and shall also pay to the Claimants simple interest at the legal statutory rate for the State of California from November 20, 1995 until the date of payment of the Award.
2. The parties shall bear their respective costs.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc. All Respondents are jointly and severally liable and shall pay to the Claimants \$75.00 as reimbursement of one-half of the filing fee.

AFFIRMATION

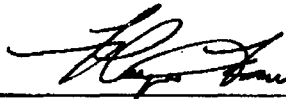
STATE OF CALIFORNIA

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SS:

COUNTY OF MARIN

I, F. Conger Fawcett, do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.



Signature of Arbitrator

DATE OF DECISION: May 29, 1996

REPORT OF ARBITRATOR

RULINGS ON THE MERITS:

a. I conclude that Complainants' first (July '94) purchase of the SKYS stock, a modest investment, was essentially a matter of their own initiative and not chargeable to any of the Respondents.

b. I conclude that both parties were responsible for the two subsequent purchases, Respondents chargeable (in part) therefor by virtue of Mr. Rogers' transmittal of the (apparently quite false) "Conservative Speculator" coupled with Hunter's position as a market maker in the stock; also, in light of the size of the second purchase and the cumulative size of the investment at the time of the third purchase, by apparent disregard of the "suitability" and "know your customer" rules. Complainants however were not at all induced to invest against their own judgment, so are not themselves blameless in the matter. Without any basis for a more precise allocation, I hold Complainants and Respondents equally responsible, thus assessing, on a "comparative negligence" basis, one-half of the investment cost as damages against the Respondents.

c. Not having been provided with account statements verifying total costs, including commissions, of the two said purchases, and being unwilling to speculate, I use for the investment-cost basis for the award discussed in paragraph "b," immediately above, only the recited per-share purchase prices, which total the sum of \$9,210 and thus result in a damages sum of \$4,605.

d. I cannot conclude that any clear orders to sell were in fact communicated, and hence make no award based on these allegations.

e. I hold that Hunter International is legally responsible for the actions of its employee, Rogers; and that Messrs. Jones and Donner, as management of Hunter, may properly also be charged, on (at least) a failure-to-supervise basis.

I therefore find in favor of the Complainants and against all four of the named respondents (the corporation and the three individuals), jointly and severally, in the principal sum of \$4,605.

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