

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimants

Richard F. and Peggy Q. Kent

95-05842

Name of Respondent

Stratton Oakmont, Inc.

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CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on December 14, 1995, Claimants Richard F. and Peggy Q. Kent ("Claimants"), who appeared Pro Se, alleged that Respondent Stratton Oakmont, Inc., through its representative Frank Rucciti ("Rucciti"), pressured them into purchasing 2,000 shares of Dual Star Technology ("DSTR") to their detriment. Claimants further alleged that Rucciti told them the stock could go from \$10.00 per share to over \$30.00 per share within one year suggesting that it would be trading for around \$14.00 per share within thirty days. Claimants contended that the stock immediately began to decline in value. Claimants further contended that Rucciti contacted them several times after the purchase suggesting that they should 'average down' by increasing the number of shares they held. Claimants alleged that they resisted these calls so Dan Gallagher began calling using similar sales tactics. Claimants further alleged that they requested that the stock be sold but the Respondent was uncooperative to that end. Claimants contended that they understand the risks of investing, but the volatility of the stock was never disclosed to them. Claimants further contended that as a result of the above, they have suffered a loss for which the Respondent should be held liable.

Respondent Stratton Oakmont, Inc., through its representative and counsel, Gregg G. Evangelist, Esq., of Ormsten & Evangelist, located in Jericho, NY, maintained that the transaction in dispute concerns the purchase of 2,000 shares of DSTR. Respondent further maintained that the Claimants opened a non-discretionary account, understood the risks of investing and had the financial capacity to bear risk of loss. Respondent contended that the impetus for the claim is rather obvious--after the purchase of DSTR, it declined in value and was ultimately sold for a loss. Respondent further contended that the Claimants are sophisticated and clearly suitable investors. Respondent maintained that the decline of the stock was clearly the result of forces beyond its knowledge or control. Respondent further maintained that as a result of the above, it should not be held liable.

RELIEF REQUESTED

Claimants Richard F. and Peggy Q. Kent, requested \$6,167.00 in actual damages.

Respondent Stratton Oakmont, Inc., requested that the claims of the Claimants be dismissed.

**AWARD**

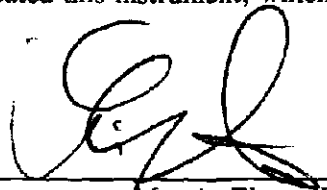
Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Marvin Elster, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on December 8, 1995, and by the Respondent on February 6, 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. The Respondent Stratton Oakmont, Inc. is liable and shall pay to the Claimants Richard F. and Peggy Q. Kent \$6,167.00 in actual damages.
2. The Respondent Stratton Oakmont, Inc. is liable and shall pay to the Claimants Richard F. and Peggy Q. Kent simple interest at the rate of 10% per annum from April 10, 1995 to the date of payment of the Award.
3. The parties shall bear their respective costs.
4. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants shall be retained by the NASD, Inc.

**AFFIRMATION**

I, **MARVIN ELSTER, ESQ.**, 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.

  
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Marvin Elster, Esq.

DATE OF DECISION: April 24, 1996