

AWARD

NASD Regulation, Inc. Office of Dispute Resolution

In the Matter of the Arbitration Between

Harold P. Stamey,
Claimant,

vs.

96-000 19

Monroe Parker Securities, and
Edward Albano,
Respondents.

REPRESENTATION OF PARTIES

Claimant Harold P. Stamey ("Claimant") appeared on his own behalf

Respondents Monroe Parker Securities ("MPS"), and Edward Albano ("Albano") (jointly referred to as Respondents") were represented by Marc Ross, Esq., of Singer, Bienenstock, Zamansky, Ogele & Selengut, LLP, New York, New York.

CASE INFORMATION

Claimant's Statement of Claim was filed on or about January 2, 1996. Claimant's Submission Statement of Agreement was signed on December 6, 1996.

Respondents' joint Statement of Answer was filed on or about April 1, 1996. The NASD does not have a record of Respondents having filed Submission Agreements.

HEARING INFORMATION

A telephonic pre-hearing conference was held on August 9, 1996 for one (1) session

The hearing was held on: November 19, 1996 for two (2) sessions.

The hearing was held in Memphis, Tennessee

CASE SUMMARY

Claimant stated that: He felt he had been misled and taken advantage of by Albano; MPS was doing an injustice because of the confusing way they try to get an investor to buy and sell stocks; his initial transaction with Albano was a telephone solicitation to buy Quaker Oats ("Quaker") he was then moved out of Quaker to various stocks that MPS was a market maker; and that all of the stocks were presented as hot deals that were going to greatly increase Claimant's investment. Claimant filed the present claim alleging that: Respondents did not sell all of his shares of Dulstar Technologies Corporation ("DSTR") as he had requested on April 21, 1995; on April 21, 1995, Claimant gave Albano specific instructions to sell 22,170 shares; Albano would never actually deal with the issue

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after Claimant had requested him to do so many times; he had been pressured into making buying and selling decisions; and that MPS and Albano refused to resolve the DSTR problem with Claimant.

Respondents denied the allegations set forth in the Statement of Claim. Respondents asserted the following **affirmative** defenses: Claimant has failed to state a claim for which relief may be granted; Claimant has failed to state a claim against Respondents; Respondents acted in good faith and did not directly or indirectly induce the acts alleged to have constituted Claimant's causes of action and/or alleged violations; if any damage or loss was sustained by Claimant, this damages or loss was caused in whole or in part by Claimant's own actions, omissions, fault, contributory negligence, comparative negligence and lack of due diligence; Claimant authorized and directed the execution of all transactions in his account; Claimant's claims are barred by the principles of waiver, ratification and assumption of risk; Claimant's claims are barred by the doctrines of estoppel and economic loss; Claimant failed to mitigate his damages; and Respondents acted in good faith and exercised that degree of care, diligence and skill which an ordinary and prudent broker-dealer and registered representative would exercise in similar circumstances and like positions.

RELIEF REQUESTED

Claimant requested an award in the amount of \$93,100 less the value of the 10,000 shares of DSTR still owned.

Respondents requested that the claims asserted against them be dismissed in their entirety with prejudice and that they be awarded their costs, expenses and fees, including attorneys' fees, and any and all relief deemed just and proper by the panel.

OTHER ISSUES CONSIDERED & DECIDED

Respondents did not file with NASD Regulation, Inc. Office of Dispute Resolution properly executed submissions to arbitration but are required to submit to arbitration pursuant to Rule 10301 of the NASD Code of Arbitration Procedure (the "Code") and having answered the claim, appeared and testified at the hearing and are bound by the determination of the arbitration panel on all issues submitted.

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 original(s) remain on file with NASD Regulation, Inc. Office of Dispute Resolution.

AWARD

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

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That other than forum fees, which are addressed below, all other claims and requests for relief are, and each of them, denied with prejudice.

FORUM FEES

Forum fees are calculated at the rate of \$500 per hearing session and \$300 for each pre-hearing conference, **if any**. There were two hearing sessions x \$500 and one (1) pre-hearing session x \$300 = \$1,300 in forum fees. Pursuant to Rule 10332(b) a hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with an arbitrator, which lasts four (4) hours or less.

Pursuant to Rule 10332(c) of the Code, NASD Regulation, Inc. Office of Dispute Resolution shall retain the non-refundable filing fee in the amount of \$150 and shall retain as forum fees the hearing session deposit in the amount of \$500 previously deposited with NASD Regulation, Inc. Office of Dispute Resolution by Claimant Harold P. Stamey.

Pursuant to Rule 10333 of the Code, MPS is liable for and shall pay to NASD Regulation, Inc. Office of Dispute Resolution the non-refundable member surcharge in the amount of \$300.

Pursuant to Rule 10319(b) of the Code, MPS is liable for, and shall pay to NASD Regulation, Inc. Office of Dispute Resolution a postponement fee in the amount of \$500.

Additional forum fees in the amount of \$800 are assessed jointly and severally against the Respondents.

Fees are payable to NASD Regulation, Inc. Office of Dispute Resolution.

Dated:

Thomas L. Maschmeyer, Jr.
Thomas L. Maschmeyer, Jr.
Public Arbitrator, Presiding Chair

/s/

December 9, 1996

Rosemarie L. Bryan
Rosemarie L. Bryan
Public Arbitrator

/s/

December 11, 1996

E. Steve Scales
E. Steve Scales
Industry Arbitrator

/s/

December 9, 1996