

AWARD

**NASD, Regulation, Inc.,
Office of Dispute Resolution**

In the Matter of the Arbitration Between

Sanford G. Powers

Claimant

NASD Regulation, Inc.
No. 96-00212

v.

Torrey Pines Securities, Inc.
Frederick Marshall Kee

Respondents

REPRESENTATION OF PARTIES

Sanford G. Powers ("**Claimant**") represented himself pro se.

Torrey Pines Securities, Inc. ("**Respondent**") was represented by William F. Gunderson and Leonard J. Velis, Torrey Pines Securities, Inc., Solana Beach, California.

Frederick Marshall Kee ("**Respondent**") represented by himself pro se.

CASE INFORMATION

Claimant's Statement of Claim was filed on or about January 12, 1996. Claimant's Submission Agreement was signed on January 22, 1996. A second Submission Agreement which included Frederick Marshall Kee was signed on June 28, 1996. A Amendment to the Statement of Claim was filed on June 29, 1996.

The Statement of Answer for Torrey Pines Securities, Inc. was filed on or about March 5, 1996. The Submission Agreement for Torrey Pines Securities, Inc. was signed on March 4, 1996.

The Statement of Answer for Frederick Marshall Kee was filed on or about December 17, 1996. The Submission Agreement for Frederick Marshall Kee was signed on December 17, 1996.

HEARING INFORMATION

The hearing was held on March 11, 1997 in San Diego, California for a total of 1 session.

CASE SUMMARY

Claimant alleges that the Respondents made misrepresentations regarding the ADVT stock purchased by the Claimant. Claimant further alleges that the Respondents did not do the proper due diligence on ADVT prior to making any recommendations.

Respondent Torrey Pines Securities denies the allegations set forth in the Statement of Claim. Torrey Pines specifically argues that ADVT was never recommended during any investment workshops which the Claimant may have attended. Torrey Pines further argues that the Claimant made clear his intention to purchase speculative stock and portrayed himself as a successful business man who was able to way any risks associated with his purchase.

Respondent Frederick Marshall Kee denies ever making a recommendation to the Claimant to purchase ADVT. He further argues that he believes that the Claimant made a minimum purchase to try to entice the Respondents into booking cruise ship business through Claimant's travel agency.

RELIEF REQUESTED

Claimant requested an award in the amount of \$2,000. Claimant further requested an award of \$2,000 in punitive damages.

Both respondents requested that the claims asserted against them be denied in their entirety.

OTHER ISSUES CONSIDERED & DECIDED

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 NASD Regulation, Inc., Office of Dispute Resolution.

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. Each and every claim of the Claimant is dismissed;
2. Each side to bear their respective costs.

FORUM FEES

Forum fees are calculated at the rate of \$100 per hearing session and \$300 for each prehearing conference, if any. There was 1 session x \$100 = \$100 in forum fees. Pursuant to §43(b) of the NASD Regulation, Inc., Office of Dispute Resolution Code of Arbitration Procedure (the "Code"), 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 § 43(c) of the Code of Arbitration Procedure, the parties shall divide the forum fees 50%-50%, with the claimant bearing 50%, and the respondents jointly and severally bearing 50%.

Total Fees

1 Hearing Session @ \$100.00 =	\$100.00
Total	<u>\$100.00</u>


Claimant's 1/2 share	\$ 50.00
Claimant's credit for deposit	<u>\$100.00</u>
Claimant's balance < refund >	\$ < 50.00 >

Respondent's joint and several 1/2 share	<u>\$50.00</u>
Respondent's Balance	\$50.00

Pursuant to §43(c) of the Code, NASD Regulation, Inc. shall retain the non-refundable filing fee in the amount of \$50 and shall refund from the hearing session deposit made by the Claimant the amount of \$50.

Pursuant to §45 of the Code, the NASD shall retain the member surcharge fee in the amount of \$100 previously paid by Torrey Pines Securities, Inc.

Fees are payable to the NASD, Regulation, Inc.


William D. Randolph, Esq.
Public Arbitrator, Presiding Chair

Dated:

3/12/97

Date Served: March 17, 1997