

AWARD

NASD Regulation, Inc. Office of Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

Jon Seibold

and

96-00659

Name of Respondent

Piper Jaffray, Inc.
Bruce Barron

REPRESENTATION OF PARTIES

Jon Seibold ("**Claimant**") was represented by Kathleen K. Rauenhorst, Esq., Rauenhorst & Associates, P.A., Roseville, Minnesota.

Piper Jaffray, Inc. ("**Respondent Piper**") and Bruce Barron ("**Respondent Barron**") were represented by Terrence J. Fleming, Esq. and Kim Ruckdaschel-Haley, Esq., Lindquist & Vennum P.L.L.P., Minneapolis, Minnesota.

CASE INFORMATION

The Statement of Claim was filed on or about February 14, 1996. Submission Agreement of Claimant Jon Seibold was signed on January 30, 1996. Reply to Counterclaim was dated June 19, 1996.

Statement of Answer and Counterclaim was filed by Respondents Piper Jaffray, Inc. and Bruce Barron on or about June 10, 1996. Submission Agreement of Respondent Piper Jaffray, Inc. was signed on May 22, 1996 by Mark S. Reed. Submission Agreement of Respondent Bruce Barron was signed on May 28, 1996.

HEARING INFORMATION

The hearing was held on Tuesday, February 25, 1997 in Minneapolis, Minnesota for a total of two (2) sessions.

CASE SUMMARY

Claimant alleged that he was contacted by Respondent Barron who represented himself as an agent, stockbroker, and employee of Respondent Piper during the fall of 1990 to solicit his financing assistance and/or investment in securities of a non-public corporation, Diversified Technical Systems, Inc. ("DTS") in which Respondent Barron owned substantial stock and was involved in the management. It was further alleged that Respondent Barron always presented himself to Claimant first as a Piper Jaffray stockbroker and second as an officer of DTS. Specifically, Claimant alleged that respondent Barron did not disclose to him that the shares of DTS that he was purchasing were his shares and that the proceeds were not going to the corporation for its capital needs. Claimant also alleged that Respondent Piper negligently and carelessly allowed and permitted Respondent Barron to fraudulently and deceitfully sell to him the shares of stock owned by Respondent Barron.

Respondents denied the allegations set forth in the Statement of Claim. Respondents specifically stated that Claimant knew that he was purchasing stock directly from Respondent Barron, but that the Claimant spent more than a year actively pursuing Respondent Barron and other DTS shareholders in his efforts to obtain shares of stock in DTS. Respondents further stated that Claimant was fully aware that Respondent Piper had no involvement in DTS or the transaction at issue. In addition, Respondents stated that Claimant promoted himself as a financier of DTS and actively participated in providing financial advice and services to DTS.

Respondent Barron asserted a counterclaim against Claimant for defamation. It was specifically alleged that the statements made by Claimant are false and made by Claimant maliciously, with full knowledge of their falsity, or with reckless disregard for the truth or falsity of the statements.

RELIEF REQUESTED

Claimant requested an award in the total amount of \$40,174.08 which represents the return of his investment of \$22,500, interest at the rate of 10% per annum from August 9, 1991; \$5,000 for attorneys' fees; and \$420 for costs and expenses incurred as of March 19, 1996. Claimant requested that the counterclaim asserted against him be dismissed.

Respondents requested that the claims asserted against them be dismissed and that they be awarded their costs and attorneys' fees. In addition, Respondent Barron requested an award of damages in excess of \$50,000.

OTHER ISSUES CONSIDERED & DECIDED

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 the 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:

1. The claims asserted in this matter shall be and hereby are dismissed in their entirety.
2. The counterclaim asserted in this matter shall be and hereby is dismissed in its entirety.
3. Claimant Jon Seibold shall be and hereby is liable for and shall pay to Respondents Piper Jaffray, Inc. and Bruce Barron the sum of \$12,500 (**twelve thousand five hundred dollars**) as attorneys' fees.
4. Each party shall bear its own costs, expenses and fees, including attorneys' fees incurred in this matter not specifically enumerated herein.

FORUM FEES

Forum fees are calculated at the rate of \$400 per hearing session and \$300 for each pre-hearing conference, if any. There were two (2) sessions x \$400 = \$800 in forum fees. Pursuant to §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 §10332(c) of the NASD Code of Arbitration Procedure, the NASD Regulation, Inc. Office of Dispute Resolution 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 \$300 previously deposited with the NASD Regulation, Inc. Office of Dispute Resolution by the Claimant Jon Seibold. Pursuant to §10332(c) of the NASD Code of Arbitration Procedure, the NASD Regulation, Inc. Office of Dispute Resolution shall **retain** the non-refundable filing fee in the amount of \$500 and shall **retain** as forum fees the hearing session deposit in the amount of \$600 previously deposited with the NASD Regulation, Inc. Office of Dispute Resolution on behalf of Respondent Bruce Barron.

Pursuant to §10333 of the NASD Code of Arbitration Procedure, the NASD Regulation, Inc. Office of Dispute Resolution shall **retain** the non-refundable member surcharge in the amount of \$200. Respondents have deposited the total sum of \$1,450 with the NASD Regulation, Inc. Office of Dispute Resolution total of \$1,300 of that sum will be applied as set forth above. The balance of

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\$150 will be refunded. Fees are payable to the NASD Regulation, Inc. Office of Dispute Resolution.

/s/ James A. Lundberg, Esq.
James A. Lundberg, Esq.
Public Arbitrator, Presiding Chair

Dated:

February 25, 1997

/s/ Arlen G. Restad
Arlen G. Restad
Public Arbitrator

February 25, 1997

/s/ Gerald J. Shaughnessy
Gerald J. Shaughnessy
Industry Arbitrator

February 25, 1997