

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Kevin M. and Elizabeth L. Bayne

96-03038

Name of Respondent

La Jolla Capital Corporation

REPRESENTATION

For Claimants: William J. Schifino, Jr., Esq. of the law firm of Williams, Reed, Weinstein, Schifino & Mangione, P.A., Tampa, FL.

For Respondent: James C. Weaver, Esq. in-house counsel at La Jolla Capital Corporation.

CASE INFORMATION

Statement of Claim filed: July 16, 1996.

Claimants' Submission Agreement signed on: July 8, 1996.

Statement of Answer filed by Respondent on: August 26, 1996.

Respondent's Submission Agreement signed on: August 23, 1996.

HEARING INFORMATION

A telephonic pre-hearing conference was conducted on November 22, 1996 with the arbitration panel and two hearing sessions were conducted in this matter on February 6, 1997 in Tampa, FL.

CASE SUMMARY

Claimants alleged that the Respondent sold, without ever obtaining the Claimants' authorization, 15,000 shares of Comparator Systems, Inc. stock for a sales price of \$.09 per share and thereafter, the price of the stock rose to a high of approximately \$1.83 per share. Claimants next alleged that the Respondent violated the anti-fraud provision of the Florida Securities Act;

they breached the fiduciary duty owed to the Claimants; the Respondent acted in a negligent manner; the Respondent engaged in common law fraud; and, the Respondent breached the contract with the Claimants.

Respondent maintained that the Comparator stock was sold by the Respondent upon the authority of the broker for the Claimant, Jeff Trilling, and the sale of the stock was authorized by the Claimants. Respondent next maintained that they did not engage in any activity in violation of the Florida Securities Act. Respondent next maintained that they made no representations, statements, or omissions with any intent to defraud the Claimants and they did not act in a manner showing willful and reckless disregard for the rights of anyone.

RELIEF REQUESTED

Claimants requested compensatory damages in the sum of \$26,100.00, interest, costs, reasonable attorneys' fees and such other and further relief as may be just and proper.

Respondent requested a dismissal of all claims against them, costs of defending the suit and such other relief as the arbitrators may deem appropriate.

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.

AWARD

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

1. The Respondent be and hereby is liable and shall pay to the Claimants the sum of \$21,150.00 plus simple interest at the Florida statutory rate from May 3, 1996 until date of payment of the award.
2. Attorneys' fees and their costs shall be awarded to the Claimants as determined by a court of competent jurisdiction.
3. The Respondent shall pay to the Claimants the sum of \$400.00 representing reimbursement of the hearing session deposit previously paid by the Claimants to the NASD.

FORUM FEES

Pursuant to Section 10332 of the Code of Arbitration Procedure, the arbitration panel has assessed Forum Fees in the sum of \$1,200.00 (2 sessions x 400.00 plus one pre-hearing conference \$400.00).

1. Respondent is assessed the sum of \$1,200.00 for which the NASD shall retain the \$400.00 previously deposited by the Claimants in partial satisfaction thereof leaving a balance due to the NASD of \$800.00.

2. The NASD shall retain the \$100.00 claim filing fee previously paid by the Claimants to the NASD.

Fees are payable to the National Association of Securities Dealers, Inc.

Concurring Arbitrators' Signatures
Name

Public/Industry

/s/
Sheldon L. Barat

Public

/s/
Joe Tarrer

Public

/s/
Harold C. Anders

Industry

Date of Decision:

2/19/97