

AWARDNASD REGULATION, INC., OFFICE OF DISPUTE RESOLUTION

In the matter of the Arbitration Between

Name of Claimant(s)

Philip G. Heyde

V.

Arbitration No.
96-05605

Name of Respondent(s)

Capitol Bay Securities, Inc.
Steven W. Ricketts
Stephen C. Kircher

REPRESENTATION

For Claimant: Matthew V. Brady, Esq.
Sacramento, California

For Respondents Capitol Bay Securities and Stephen C. Kircher:

Stephen M. Harris, Esq.
Knapp, Petersen & Clarke
Glendale, California

For Respondent Steven Ricketts:

David A. Shafer, Esq.
Auburn, California

CASE INFORMATION

Statement of Claim filed: December 13, 1996

Claimant's Submission Agreement signed: December 17, 1996

Joint Statement of Answer filed by Capitol Bay Securities and Stephen Kircher:
February 4, 1997

Statements of Answer filed by Steven Ricketts:
February 3, 1997, and December 12, 1997

Respondents' Submission Agreements signed:

Capitol Bay Securities:	February 4, 1997
Stephen Kircher:	February 4, 1997
Steven Ricketts:	January 30, 1997

HEARING INFORMATION

Pre-hearing telephone conferences were held as follows:

December 4, 1997	1 session
April 20, 1998	1 session

The evidentiary hearing held in San Francisco, California as follows:

May 4, 1998	3 sessions
May 19, 1998	1 session (by phone)
June 29, 1998	1 session (by phone)

CASE SUMMARY

Claimant alleged Respondents failed to disclose material information and made material misrepresentations concerning Claimant's investment in units of Pearce Systems. Claimant alleged violations of Section 25401 of the California Corporations Code, as well as fraud, negligence, breach of contract and breach of fiduciary duty.

Respondent Ricketts denied the allegations of the claim, and stated that he relied upon the due diligence and information provided by Pearce Systems' underwriter and by Capitol Bay Securities in offering this investment to Claimant.

Respondents Capitol Bay and Kircher denied the allegations of the claim and stated that Claimant, an attorney, was a sophisticated and experienced investor, had been retained by Capitol Bay to review the materials relating to Pearce Systems and to advise Capitol Bay on any possible liability as a result of the Pearce transactions, and was aware that the Pearce investment was speculative and that Claimant assumed the risk of loss.

RELIEF REQUESTED

Claimant requested rescission and damages of \$7,250.00 plus interest, punitive damages, attorney's fees and costs of arbitration.

Respondents requested dismissal of the claim.

Respondent Steven Ricketts requested an award of attorney's fees from Respondents Kircher and Capitol Bay for their conduct for not indemnifying him and for having to defend this claim.

OTHER ISSUES CONSIDERED AND DECIDED

The parties have agreed to receive conformed copies of the Award while the originals remain on file with NASDR, Inc.

AWARD

The undersigned arbitrator, having considered the pleadings, the testimony and the evidence presented at the hearing, and the post-hearing submissions has determined in full and final resolution of the issues submitted for determination as follows:

1. All claims asserted by Claimant are dismissed in their entirety.
2. Respondent Capitol Bay Securities is liable for and shall pay to Respondent Steven Ricketts the sum of \$9,650.00 for attorney's fees, pursuant to California Labor Code Section 2802. The claim for administrative fees and interest paid to Mr. Ricketts' attorney is denied.
3. Except as decided and awarded herein, each party will bear his or its attorney's fees and costs.

FORUM FEES

Pursuant to Section 10332 of the Code of Arbitration Procedure, the NASDR shall retain Claimant's \$75.00 non-refundable filing fee, but shall refund the \$200 hearing session deposit.

Respondents Capitol Bay Securities and Stephen Kircher are jointly and severally assessed all forum fees, payable to NASDR, Inc.

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2 pre-hearing telephone conferences @ \$200/session
5 hearing sessions @ \$200/session

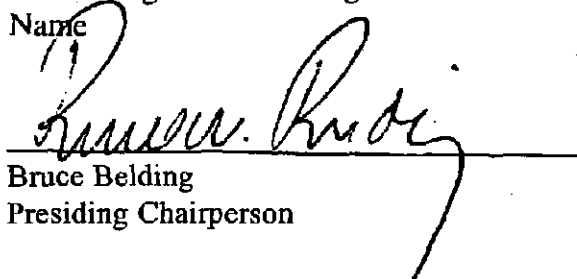
\$ 400.00

\$ 1,000.00

\$ 1,400.00

Concurring Arbitrators Signatures

Name


Bruce Belding
Presiding Chairperson

Public/Industry

Public

Date Served:

SEP 01 1998