

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between

Name of Claimant

Thomas H. Buske

Case No. 99-04669

Name of Respondent

Tradeway Securities Group, Inc.

Hearing Site: Milwaukee, Wisconsin

REPRESENTATION OF PARTIES

Claimant Thomas H. Buske ("Buske") was represented by Paul N. Young, CEO, of Securities Arbitration Group, Inc., located in Los Angeles, California.

Respondent Tradeway Securities Group, Inc. ("Tradeway") was represented by Carl F. Schoeppl, Esq. of the firm of Schoeppl, Burke & Kayton, P.A., located in Boca Raton, Florida.

CASE INFORMATION

Statement of Claim filed on or about: October 15, 1999.

Claimant signed the Uniform Submission Agreement: October 1, 1999.

Statement of Answer filed by Respondent on or about: December 16, 1999.

Respondent signed the Uniform Submission Agreement: December 16, 1999.

CASE SUMMARY

Claimant asserted the following causes of action: fraud; suitability; unauthorized transactions and improper/inappropriate use of margin; misrepresentation by both commission and omission and the fraudulent use of manipulative and deceptive practices; failure to properly supervise account and account executives' activity in the account; violation of NASD guidelines and the Rules of Fair Practice, including, but not limited to, Article III, Section 1, 18, 27 and 35; and violations of SEC Rule 15c1-2: "Manipulative and Deceptive Practices" and other multiple violations and rules and regulations. The causes of action relate to the purchase and sale of several common stocks.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the

Statement of Claim and asserted the following defenses:

1. The Claimant failed to state facts sufficient to constitute a claim for which relief must be granted;
2. Claimant is barred from recovery from Tradeway by the doctrine of unclean hands;
3. Each and every allegation in the claim is barred by the applicable statute of limitations;
4. Claimant has unreasonably delayed commencement of this arbitration and is barred by the doctrine of laches;
5. Each allegation is without merit and groundless, and any damage that occurred resulted from the acts of third parties;
6. The Claimant's acts, omissions or other wrongful conduct contributed to the occurrence of the claims, barring recovery. If Claimant does recover from Tradeway, the damages should be reduced by the amount Claimant or its agents caused;
7. The damages resulted from the acts or negligent actions of other persons or entities, and any recovery should be reduced by the amount that the fault of these other persons contributed to the damages;
8. As a result of the primary and active negligence, breach of contract or warranty, or other wrongful conduct on the part of Claimant, Tradeway is entitled to complete indemnity and contribution from Claimant;
9. Claimant is barred from recovery because of the fraud or negligent misrepresentation of Claimant;
10. Claimant, by his own words, actions or inaction, has knowingly and voluntarily waived his right to recover;
11. As a result of Buske's acts, conduct and omissions, upon which Tradeway relied to its detriment, Buske is estopped from seeking recovery from Tradeway;
12. Claimant is barred from recovery because of the absence of any relationship, whether contractual or otherwise, between Buske and Tradeway;
13. Claimant is barred from any recovery from Tradeway because he ratified the conduct of Tradeway;
14. Claimant is barred from recovery by his own acts of bad faith;
15. Claimant is barred by reason that he has engaged in acts and courses of conduct the render him *in pari delicto*;
16. Claimant's recovery, if any, is barred or should be reduced in a direct proportional amount by his own failure to mitigate damages; and,
17. Claimant did not suffer any damages that were proximately caused by any action, representation, omission, or any other conduct of Tradeway.

RELIEF REQUESTED

Claimant requested:

Compensatory Damages	\$ 53,421.00
Punitive Damages	\$ 40,000.00

Interest	\$ 368.00
Other Costs	\$ 975.00
And other Monetary/Non-Monetary Relief, if any.	

Respondent requested that the claim be dismissed in its entirety.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, and the pre-hearing briefs and case summaries, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent Tradeway Securities Group, Inc. is liable for and shall pay to the Claimant, Thomas H. Buske, the sum of \$33,782.00 as compensatory damages, plus interest at the rate of \$5.55 per day accruing from April 12, 1999 until the sum is paid in full;
2. In addition, Respondent Tradeway Securities Group, Inc. is liable for and shall pay to the Claimant, Thomas H. Buske, the sum of \$2,000.00 as punitive damages. In deciding to award punitive damages, the panel considered the arguments and pleadings of the parties, as well as the evidence of fraud, and determined that authority existed for an award of punitive damages to the Claimant;
3. Furthermore, Respondent Tradeway Securities Group, Inc. is liable for and shall pay to the Claimant, Thomas H. Buske, the sum of \$225.00 as reimbursement of the non-refundable claim filing fee;
4. The parties shall bear their own costs of arbitration, including any attorneys' fees, except for those specifically enumerated herein; and
5. Any and all relief not specifically addressed herein is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$ 225.00
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Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated person at the time of the events giving rise to the dispute. In this matter, the member firm is a party.

Member surcharge	= \$ 1,000.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$ 1,500.00

Total Member Fees = \$ 3,100.00

Adjournment Fees

Adjournments requested during these proceedings:

December 13-15, 2000 adjournment by Respondent Tradeway Securities Group, Inc. = \$ 750.00

Forum Fees and Assessments

The panel has the authority to assess forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with a single arbitrator x \$450.00 = \$ 450.00
Pre-hearing conference: October 23, 2000 1 session

One (1) Pre-hearing session with Panel x \$750.00 = \$ 750.00
Pre-hearing conference: May 31, 2000 1 session

Four (4) Hearing sessions x \$750.00 = \$ 3,000.00
Hearing Dates: April 2, 2002 2 sessions
April 3, 2002 2 sessions

Total Forum Fees = \$ 4,200.00

The panel has assessed \$ 4,200.00 of the forum fees to Respondent Tradeway Securities Group, Inc.

EEE SUMMARY

Claimant Thomas H. Buske is solely liable for:

Initial Filing Fee = \$ 225.00

Less payments = \$ 975.00

Refund Due from NASD Dispute Resolution, Inc. = \$ 750.00

Respondent Tradeway Securities Group, Inc. is solely liable for:

Member Fees = \$ 3,100.00

Adjournment Fee = \$ 750.00

Forum Fees = \$ 4,200.00

Total Fees = \$ 8,050.00

Less payments = \$ 4,100.00

Balance Due NASD Dispute Resolution, Inc. = \$ 3,950.00

All balances are due to NASD Dispute Resolution, Inc.

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ARBITRATION PANEL

Frederick P. Kessler, Esq. - Public Arbitrator, Presiding Chair
Philip P. Rummel, Esq. - Public Arbitrator
Lee R. Wyatt - Non-Public Arbitrator

Concurring Arbitrators' Signatures



Frederick P. Kessler, Esq.
Public Arbitrator, Presiding Chair

5-13-02

Signature Date

Lee R. Wyatt
Non-Public Arbitrator

Signature Date

Dissenting Arbitrator

Arbitrator Philip P. Rummel, Esq. concurs in part and dissents in part:

The Panel unanimously held that Respondent Tradeway Securities Group, Inc. both recommended securities which were not suitable for the claimant and also defrauded the claimant. In these holding, I concurred. However, I would have awarded the sum of \$39,905.00 as compensatory damages for the breach of Respondent's suitability obligation and I would have awarded the sum of \$38,656.00 for the separate act of fraud (Respondent could have satisfied both amount's by paying \$39,905.00).

I also concurred with the unanimous finding that the sum of \$2,000.00 in punitive damages was awarded because of the evidence of fraud.

Other than the above concurrences and dissents I agreed with all other matters set forth in the award.

Philip P. Rummel, Esq.
Public Arbitrator

Signature Date

5/17/02 mm

Date of Service (For NASD-Dispute Resolution office use only)

NASD Dispute Resolution, Inc.

Arbitration No. 99-04669

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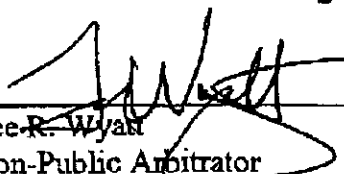
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Philip P. Rummel, Esq. - Public Arbitrator

Lee R. Wyatt - Non-Public Arbitrator

Concurring Arbitrators' SignaturesFrederick P. Kessler, Esq.
Public Arbitrator, Presiding Chair

Signature Date


Lee R. Wyatt
Non-Public Arbitrator5-16-02
Signature Date**Dissenting Arbitrator**

Arbitrator Philip P. Rummel, Esq. concurs in part and dissents in part:

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Public Arbitrator

Signature Date

5/17/02 
Date of Service (For NASD-Dispute Resolution office use only)

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Philip P. Rummel, Esq. - Public Arbitrator

Lee R. Wyatt - Non-Public Arbitrator

Concurring Arbitrators' Signatures

Frederick P. Kessler, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Lee R. Wyatt
Non-Public Arbitrator

Signature Date

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Other than the above concurrences and dissents I agreed with all other matters set forth in the award.

Philip P. Rummel
Philip P. Rummel, Esq.
Public Arbitrator

May 13, 2002
Signature Date

5/17/02 DK
Date of Service (For NASD-Dispute Resolution office use only)