

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Among

Randy McDermott,

Claimant

Case #87-01945

VS.

### Award

Blinder Robinson & Co. and  
John Bennett,

## Respondents

## CASE SUMMARY

Claimant alleged that Respondent, John Bennett, misrepresented the prices of Applied Genetics common stock and warrants and Stari, Ltd., as an inducement to purchase these securities and that these investments were unsuitable, given the net worth requirement set by the SEC. Claimant further alleged that Mr. Bennett failed to consolidate Claimant's account with that of his brother which resulted in securities being bought in the wrong account, sold out at a loss and purchased to the correct account.

Respondent, Blinder Robinson & Co., Inc., maintained that Claimant is mistaken about any inflexible SEC rule regarding annual income and net worth and that Claimant was clearly suitable for the trades he undertook. Blinder Robinson further maintained that no misrepresentations were made to Claimant and felt that Claimant had complained about all the stocks in which he lost money and about none of the securities in which he made money.

Respondent, John Bennett, also maintained that there is no SEC rule on annual income and net worth and that based upon his income and net worth and his past investment experience, he was not unsuitable. He further maintained that he did not represent any book values for either Applied Genetics or Stari, Ltd. since these stocks were too young and too small to have a measurable book value. Mr. Bennett further maintained that Blinder Robinson was not entirely honest with him about the financial condition of Stari, Ltd. and therefore, he could not have relayed any negative information about the stock to the Claimant.

RELIEF REQUESTED

Claimant requested damages in the amount of \$94,500.00, plus interest and an award for mental anguish. Respondents requested a dismissal of the claim. In the alternative, if an Award is rendered against Blinder Robinson & Co., Inc., it has requested that John Bennett be liable for any and all damages owed by Blinder Robinson to Claimant.

AWARD

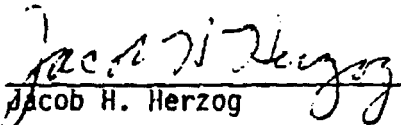
On August 22, 1989, the undersigned arbitrators heard the controversy between the parties in three hearing sessions as set forth in submissions to arbitration signed by the Claimant on October 9, 1989, by Blinder Robinson & Co., Inc. on May 27, 1988 and by John Bennett on August 22, 1989. The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has determined in full and final resolution of the issues submitted for determination as follows:

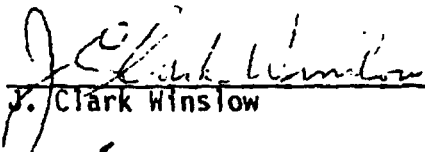
- A. Blinder Robinson & Co., Inc. shall be liable for and shall pay to Randy S. McDermott the sum of Three Thousand Nine Hundred Forty-Four Dollars and No Cents (\$3,944.00).
- B. The claim of the Claimant against John Bennett shall be and hereby is dismissed in all respects.
- C. The crossclaim of Blinder Robinson & Co., Inc. against John Bennett shall be and hereby is dismissed in all respects.
- D. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$500.00 filing fee previously deposited by the Claimant and that sum shall be assessed against Blinder Robinson & Co., Inc. to be paid directly to the Claimant together with the amount indicated in "A" above.
- E. Blinder Robinson & Co., Inc. is assessed forum fees in the amount of \$1,000.00 payable to the NASD, Inc. in accordance with Section 43 of the Code of Arbitration Procedure.
- F. Pursuant to Section 30(b) of the Code of Arbitration Procedure, John Bennett shall be liable for and shall pay to the NASD, Inc. the sum of One Hundred Dollars and No Cents (\$100.00) for receiving an adjournment of the July 18, 1989 hearing by the panel.

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G. As set forth above, the total sum due from Blinder Robinson & Co., Inc. to Randy S. McDermott is \$4,444.00. The total amount due from Blinder Robinson & Co., Inc. to the NASD, Inc. is \$1,000.00. The total amount due from John Bennett to the NASD, Inc. is \$100.00.

ARBITRATORS CONCURRING

  
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Jacob H. Herzog

  
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J. Clark Winslow

  
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Paul L. Riven

Dated: December 28, 1989