

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

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In the Matter of the Arbitration Between )  
EDWIN RAY MARCO, )  
Claimant, )  
vs. ) Case #88-02416  
BAIRD, PATRICK & CO., INC., ) Award  
Respondent. )  
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Heard before the members of the Arbitration Panel:

Allan M. Lerner, Esq.  
Norris L. Friedlander  
Douglas Delanoy, Jr.

CASE SUMMARY

This claim was filed with the NASD, Inc. on August 1, 1988. The hearings were conducted in Fort Lauderdale, Florida on September 18, and October 6, 1989, with a total of five (5) sessions.

Claimant, Edwin Ray Marco ("Marco"), alleged that he placed an order through an authorized agent of Respondent, Baird Patrick & Co., Inc. ("Baird"), without knowledge that the agent, Marlene Glad, had been suspended at the time Claimant entered the order; that the trade was never entered but would have been profitable if it had been; and Claimant, therefore, claims lost profit.

Respondent Baird denied all allegations of the Claim; any liability to Claimant; and that Claimant suffered damages.

RELIEF REQUESTED

Claimant requested damages for lost profits in the amount of \$181,250.00 plus interest. Respondent requested dismissal, costs and other relief.

AWARD

On September 18, and October 6, 1989, the arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant on July 27, 1988, and by Respondent on October 11, 1988. 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:

1. 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 received conformed copies of the Award while the originals remain on file with the NASD, Inc.

2. Respondent, Baird, shall be liable and shall pay to Claimant the amount of Thirty Six Thousand Two Hundred Fifty and 00/100 (\$36,250.00) Dollars plus interest at the legal rate of 12% per annum accruing from January 16, 1987 to the date of this Award in the amount of Twelve Thousand Three Hundred Twenty Five and 00/100 (\$12,325.00) Dollars, for a total due to Claimant in the amount of Forty Eight Thousand Five Hundred Seventy Five and 00/100 (\$48,575.00).
3. Pursuant to Section 43 of the Code of Arbitration Procedure, Respondent is hereby assessed forum fees in the amount of Three Thousand Seven Hundred Fifty and 00/100 (\$3,750.00) Dollars (five sessions x \$750.00), of which Seven Hundred Fifty and 00/100 (\$750.00) Dollars shall be paid directly to the Claimant and Three Thousand and 00/100 (\$3,000.00) Dollars shall be paid to the National Association of Securities Dealers, Inc. The NASD, Inc. shall retain the Seven Hundred Fifty and 00/100 (\$750.00) Dollar filing fee previously deposited by the Claimant.
4. The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including attorney's fees.

#### OTHER ISSUES

Following the hearing on September 18, 1989 and prior to the hearing on October 6, 1989, the Claimant moved to Amend the Claim to include a request for punitive damages. Upon consideration of that request and Respondent's opposition thereto, this Panel denied leave to Amend and, therefore, punitive damages were not part of the requested relief.

#### ARBITRATORS CONCURRING

Allan M. Lerner, Esq.  
Norris L. Friedlander  
Douglas Delanoy, Jr.

Dated: October 27, 1989