

COPY

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant(s)

Kurt & Berdel Wise

89-02759

Name of Respondent(s)

Dillon Securities Inc., Thomas Dillon,  
Conrad Lysiak, Lyle Haas, Kim Haas, and  
Brian Chaffee

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CASE SUMMARY

In a Statement of Claim filed with the NASD on October 4, 1989, Claimants Kurt and Berdell Wise alleged that: (1) the Respondents solicited and sold securities to the Claimants in Wisconsin when Respondent Chaffee, who was the account executive, was not licensed in the State of Wisconsin; (2) most of the trades executed in the Claimants' account in 1988-1989 were unauthorized; (3) Respondents Dillon Securities and Chaffee engaged in a fraudulent course of business, and in fraudulent acts and practices, including misrepresentations by the Respondents in the sale of several Stocks to Claimants; and (4) Respondent Dillon Securities, Thomas Dillon, Conrad Lysiak, Lyle Haas and Kim Haas negligently failed to supervise Respondent Chaffee's handling of the Claimants' account. As a result of these actions, Claimants allege violations of the Wisconsin Uniform Securities Law and Section 10(b) of the Securities Exchange Act, common law fraud, violation of the Federal Racketeers Influenced and Corrupt Organizations Act (RICO), violation of the Wisconsin Organized Crime Control Act (WOCCA), and negligent supervision.

In a Statement of Answer filed with the NASD on February 16, 1990, Respondents Dillon Securities, Inc., Thomas Dillon, Conrad Lysiak, Lyle Haas, Kim Haas and Brian Chaffee denied the material allegations of the Statement of Claim, stating that: (1) Claimant Kurt Wise was at all times actively involved in and personally directed each trade in the account: (2) all

monthly statements and trade confirmations were sent in a timely fashion to addresses provided by Claimants; (3) Respondents made no misrepresentations regarding the stock in Claimant's account and Claimant, in many cases obtained information directly from principals of the issuer; (4) Respondent Brian Chaffee became licensed in the State of Wisconsin immediately upon confirmation by Claimants that they resided in Wisconsin; and, (5) Respondent Chaffee's handling of Claimants' account was fully supervised in a normal and prudent manner.

#### RELIEF REQUESTED

Claimants Kurt and Berdel Wise requested entry of an award against all Respondents in the amount of \$98,803.83, recovery of all commissions paid, treble damages pursuant to the RICO claim, double damages pursuant to the WOCCA claim, punitive damages, interests, costs and reasonable attorneys' fees.

Respondents Dillon Securities, Inc., Thomas Dillon, Conrad Lysiak, Lyle Haas, Kim Haas and Brian Chaffee requested that all of Claimant's complaints be denied on each and every alternative claim and that Claimants be ordered to recompense Respondents for all costs and reasonable attorneys' fees incurred by Respondents in this action.

#### AWARD

On October 8, 9, 10, 11, and 12, 1990 in Milwaukee, Wisconsin during a hearing lasting eleven sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on August 23, 1989 by Claimants Kurt and Berdel Wise, on February 15, 1990 by Troy Moe on behalf of Respondent Dillon Securities, Inc. and on February 15, 1990 by Respondents Thomas Dillon, Conrad Lysiak, Lyle Haas, Kim Haas, and Brian Chaffee.

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 originals remain on file with the NASD, Inc.

At the close of hearing, the arbitration panel requested that the parties file post-hearing briefs on the issues in this hearing.

The arbitration panel, having considered the pleadings, the testimony, the evidence presented at the hearing, and the post-hearing briefs has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents Dillon Securities, Inc. and Brian Chaffee are jointly and severally liable for and shall pay to Claimants Kurt and Berdel Wise the sum of \$33,111.25 plus interest of \$3,862.99;

2. In addition, Respondents Dillon Securities, Inc. and Brian Chaffee are jointly and severally liable for and shall pay to Claimants Kurt and Berdell Wise the sum of \$20,855.00 as attorneys' fees in this matter. In determining to award attorneys' fees to Claimants, the panel considered the federal and state authorities cited in the parties post-hearing briefs and Wisconsin Stats. Section 551.59(1)(a) and determined that authority existed for an award of attorneys' fees in favor of Claimant;

3. The above award shall total \$57,829.24;

4. Upon receipt of the award of \$57,892.24 Kurt and Berdell Wise shall deliver and transfer to the parties paying said amount all title and ownership to the following securities:

- a. 26,500 shares of Quik Pix Stock;
- b. 20,000 Units of Quik Pix; and,
- c. 39,300 Shares of Aims Biotech Stock;

5. The claims against Respondents Thomas Dillon, Conrad Lysiak, Lyle Haas and Kim Haas are dismissed and denied in their entirety;


6. Each party shall bear their own costs of arbitration, including attorneys' fees, unless specifically enumerated herein;

7. Pursuant to Section 43 (c) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain as forum fees the \$200.00 claim filing fee and the \$800.00 hearing session deposit previously deposited with the NASD by the Claimants Kurt and Berdell Wise. Claimants Kurt and Berdell Wise are liable for and shall pay to the NASD additional forum fees of \$2,100.00. Respondents Dillon Securities, Inc. and Brian Chaffee are jointly and severally liable for and shall pay to the NASD additional forum fees of \$5,350.00.

By the Panel

Dated: \_\_\_\_\_ /S/ \_\_\_\_\_  
Ewald L. Moerke Jr., Esq.  
Presiding Arbitrator

Dated: \_\_\_\_\_ /S/ \_\_\_\_\_  
Arthur Meadow, Esq.

Dated: 7/14/91 /S/   
Ramona V. Larson  
Industry Arbitrator

2. In addition, Respondents Dillon Securities, Inc. and Brian Chaffee are jointly and severally liable for and shall pay to Claimants Kurt and Berdell Wise the sum of \$20,855.00 as attorneys' fees in this matter. In determining to award attorneys' fees to Claimants, the panel considered the federal and state authorities cited in the parties post-hearing briefs and Wisconsin Stats. Section 551.59(1)(a) and determined that authority existed for an award of attorneys' fees in favor of Claimant;

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By the Panel

Dated: \_\_\_\_\_ /S/ Ewald L. Moerke Jr., Esq.  
Presiding Arbitrator

Dated: \_\_\_\_\_ /S/ Arthur Meadow, Esq.

Dated: \_\_\_\_\_ /S/ Ramona V. Larson  
Industry Arbitrator

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By the Panel

Dated: \_\_\_\_\_ /S/ \_\_\_\_\_  
Ewald L. Moerke Jr., Esq.  
Presiding Arbitrator

Dated: January 11, 1991 /S/ Arthur Meadow  
Arthur Meadow, Esq.

Dated: \_\_\_\_\_ /S/ \_\_\_\_\_  
Ramona V. Larson  
Industry Arbitrator